

**JOHN RAWLS' ETHICAL THEORY AS A FOUNDATION FOR
CORPORATE GOVERNANCE**

BY

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APPROVAL

This Thesis was written by **Akiode Olajumoke M.** under the supervision of Professor “Muyiwa Falaiye and Dr. Anthony Okeregbe in the Department of Philosophy, Faculty of Arts. It has been approved by the department as one of the requirement for the award of the Degree of Doctor of Philosophy (PhD) in Philosophy.

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DEDICATION

This research is dedicated to the Almighty God in whom I am, I live and have my being; who by his great grace and mercy I obtained the strength and wherewithal to complete this Doctoral programme.

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ABSTRACT

This study argues the thesis that a rethinking and modification of John Rawls' ethical theory is imperative to enable it evolve social consciousness and alignment that will make it applicable to social relations with emphasis on corporate governance. Rawls' ethical theory – Principle of Justice as Fairness - is predicated upon the need to evolve principles of social justice through a just procedure such as an Original Position, to which rational persons will consent. This theory has been criticized by many scholars such as Robert Paul Wolff, Thomas Pogge, Joel Feinberg, Kenneth Arrow, Leonard Choptiany, Thomas Baldwin, and Michael Frazer. The distinctive approach of this research is to fill the lacuna left by previous critics, rework the Original Position by replacing the 'veil of ignorance' with 'instrumental reasoning' coupled with 'empathic understanding of the other' and take to logical conclusions some of his propositions. The methodology employed is a combination of conceptual analysis and hermeneutic analysis of Rawls' propositions. The critical finding of this research shows that for Rawls' Principle of Justice as Fairness to have wider social applicability and be a logical outcome of a social contract deliberation, it must be modified. Corporate governance is an aspect of social relations that is concerned with the power relations within a corporate organization, the structure and processes put in place to administer both its human and material resources in ways that are beneficial to all stakeholders and according to ethical values, principles and recognized laws of the society. Corporate governance is beset with flaws and ethical challenges which previously were ignored due mostly to the unprecedented gains and innovations accruing from its prowess and conquests but which in recent times exacerbated to the level of impacting the global economy negatively. Because of its essential role in wealth creation, economic growth and stability, it is imperative that a holistic assessment that accommodates ethical inputs at the fundamental level be undertaken. This is the task of this research. The value added to the field of applied ethics by this research is in the area of enhancing Rawls' bid to posit an alternative comprehensive theory of justice to utilitarianism; informing a reason backed social consciousness and alignment; and making it applicable to corporate governance such that it can address some ethical issues pertinent to it, thereby enhancing the balance between economic and moral priorities.

GENERAL INTRODUCTION

i. Background to the Study

Principles of justice are essential in determining the arrangement of the basic structure of a society and the distribution of scarce resources produced by it. John Rawls' discontent with the existing structure informed by utilitarianism motivated him to expound an alternative contractualist theory of justice. According to Rawls, "the great utilitarians, Hume and Adam Smith, Bentham and Mill, were social theorists and economists of the first rank and the moral doctrine they worked out was framed to meet the needs of their wider interests and to fit into a comprehensive scheme" (Rawls 1971b: vii). And this ethical theory engendered overtime in the society, basic institutions of society that favour certain starting places over others in a pervasive way such that it determines people's initial chances in life and life prospects. This, he argues, portends deep inequalities that should be eradicated. This is the crux of his cause and the keystone of his theory.

John Rawls argues that the principle of justice that would evolve from an 'Original Position of equality' would be as a result of a fair agreement or bargain among individuals who are both moral and rational beings, who have their own ends and are capable of a sense of justice. The Original position is Rawls' thought experiment where certain deliberators who are rational, egoists, who having their own ends and are capable of a sense of justice, come together under a veil of ignorance to

deliberate on the principle of justice. Justice as fairness thus begins with the choice of the first principles of a conception of justice which is to regulate all subsequent criticisms and reforms of institutions (Rawls 1971b: 11-13).

The problems with this theory begin firstly with his conception of a person that becomes pruned in the Original Position by the application of the 'veil of ignorance'. Secondly, his categorization of society as a union of social unions, in so doing acknowledging the interconnectedness and 'intersubjectivity' of persons; but he fails to explore its essence in social relation to the logical conclusion that could actualize just social relations. Thirdly, his exclusion of the private society (competitive market) which according to him is "a certain aspect of the basic structure that is actually realized" (Rawls 1971b:522) from the group of contractees, thereby denying them moral and rational capacities, inclusion into the social union that makes up society, excluding them (a part of the structure) from the application of the principle of justice as fairness which is applicable to the whole structure. Lastly, for drawing resources from the Sentimentalism school of thought without following it to its logical conclusion or acknowledging this.

These are the only problems in Rawls' ethical theory that this research attempts to resolve. These problems frustrate the applicability of his ethical theory to social relations in other spheres of the society beyond the political sphere. They also limit its ability to inform just, fair and humane institutional arrangements.

A plausible alternative for Rawls' theory would be to allow the logical outcome of his conception of persons to evolve without truncating it with the introduction of a 'veil of ignorance'. Rawls acknowledges that persons are rational, self-interested, having needs, interest, capacities, whose "inviolable rights are founded on justice such that welfare of society cannot override it neither is it subject to political bargaining or the calculus of social interest" (Rawls 1971b:3). This corroborates Husserl's concept of 'normality' and 'historicity' which presupposes the expectation of these essential traits in persons in the society (Husserl 1996:235). The expected sequel to this is the engagement of 'instrumental reasoning' to evolve principles of justice that would ensure the realization of everyone's ends without recursion to a 'veil of ignorance'. Though this veil of ignorance, according to Rawls, is to ensure that the 'contractees' "operate as free and rational persons with all factors of inequality eliminated in their thinking" (Rawls 1971: 302); it is unnecessary in a social contract position where these rational and moral egoist can deliberate on the diverse claims of everyone, on the benefits accruing from the collective efforts of social cooperation and their relationship with one another in an atmosphere of mutual co-existence. This research attempts to rework the Original Position by deploying instrumental reasoning and 'empathic understanding of the other' instead of 'veil of ignorance' to logically justify the principles of justice developed. This will also integrate the inherent rationalist and sentimentalist tendencies in a complementary manner, thereby enriching and making the theory logically

consistent and applicable to social relations. This would then create the social and environmental consciousness and alignment that will bring about just and fair basic social structures and institutions.

Of great concern to our study are corporate organizations which are economic and social institutions whose activities impact every member of the society, to the extent of determining the major features of the society and even assigning social roles to individuals in the society. Their activities comprise complex interwoven economic, social and moral relationships (Hoffman & Moore, 1984: 1). They provide the fundamental structures within which members of society combine scarce resources into usable goods and services; the channels through which these goods are distributed in the form of consumer products and services, employee salaries, investors' returns and government taxes (Velasquez, 2002:14). The outcome of corporate efficiency and productivity has resulted in gains, massive growth and expansions that drastically change the traditional prototype of corporate organizations. However, the weakening effect of the supposed progress and the destructive cornucopia of modernity on the fundamental nature- structure, process, governance - roles and responsibilities of corporate organizations are visible, yet alarmingly.

The reflections of modern corporations in the global mirror is a series of appalling images of corruption, scandals, unethical conducts, production and marketing of

unethical products, abuse of shareholders' and consumers' trust, varying degrees of exploitations, dehumanization and degradation to mention but a few. And within the corporations, unrestrained power, corporate tyranny, recklessness, lawlessness that led to recurring violations of law, conflicts of interest, productive inefficiency and pervasive harm to both primary and secondary stakeholders (Nader et al: 1976); perpetration of inequality and unfairness have become the 'status quo'. These are all symptomatic of a deeper hydra-headed problem intricately etched into the fabric of society and by extension the corporate community – systemic injustice. These reflections are particularly mind boggling because of the various claims of corporations to ethical guidance and purported commitment to ethical ethos, codes and norms.

Both primary and secondary stakeholders in corporations are human beings that generally act based on their values, beliefs and monetarily motivated strategies. But without ethical inputs, commitment to its stipulations and strict enforcement, primary stakeholders especially those in the managerial positions, focus solely on a materialistic and profit-oriented drives which are devoid of other considerations such as the human, ethical and spiritual dimensions of life, or at most pay lip service to their purported considerations of these dimensions. There is therefore need for ethics to influence these actions to the benefit of all stakeholders. Business ethics provides principles and guidelines that assist people in making informed choices that balance economic interests and social responsibilities (Weiss, 2009: 24). Business

ethics is an attempt to evaluate business practices, actions, institutions to determine how well it upholds basic concepts of human value and attains basic human good. ‘Business (corporate organization) has an obligation to its consumers and other stakeholders that extend beyond its obligation to make a profit and satisfy its investors’ (Donaldson, T., Werhane, P.H: 1999) the realization and actualization of this obligation are what make a corporate organization just and humane.

It then becomes obvious that there is a need to critically deliberate upon the basic structure of our social and economic institutions and according to John Rawls, assess their justice on the basis of how well the least advantaged in the society fares. He argues further that “any institution no matter how efficient and well arranged must be reformed and abolished if it is unjust” (Rawls, 1971b: 3).

This study argues that John Rawls’ ethical theory must be modified for it to evolve social consciousness and alignment. This proposed modification enables John Rawls’ ethical theory to have wider sphere of applicability in the same manner in which the utilitarians (Adam Smith, Hume, Bentham, Mill) were able to make their moral theory applicable to their wider interests such as social theory, economics and so on (Rawls 1971b: vii). It will therefore make it applicable to social relations outside the political sphere and arm it to address ethical issues in corporate governance such as: the violation of human dignity by perceiving and treating its members as mere means to an end; perpetrating a sharply pyramidal wage system in

an enterprise that is birthed and sustained by effort of mutual cooperation; and prioritizing profit maximization above the social and environmental cost and benefits. Corporate organizations are economic institutions that should, irrespective of contrary arguments, require and depend on a moral foundation. This research proffers the modified Rawls' ethical theory as a foundation for corporate governance. It becomes a framework for corporate organizational goals, objectives, structure, processes, governance, power flow, and relationships (Hoffman & Moore, 1984: 13). It also incorporates social consciousness and alignment that influences ethical reasoning, decisions as well as the relationship of all stakeholders.

Chapter one is dedicated to the exposition of John Rawls, how his understanding of the nature of man, the ideas of his time and his prevailing experience led to the theory of justice he proposed; and his influence on the socio-political world especially the academia.

Chapter two deals with the fundamentals of John Rawls' ethical theory, the main idea he upheld, how successfully he portrayed his ideas and various assessment of his work.

Chapter three restates the study's thesis, posits justification for the needed modification of John Rawls' ethical theory and subsequently modifies the theory.

Chapter four highlights the importance and role of corporation in the society, the negative impact ensuing from its vices and argues that incorporating the modified

ethical theory would provide the platform for maintaining a balance between economic priorities and ethical demands.

Chapter five deals with the application of the modified ethical theory of John Rawls to corporate governance through the appropriation of the Original Position to corporate governance and by infusing it into the mechanism of corporate governance such that it is enabled to influence the core values, strategies and goals of corporation

Chapter six is about corporate governance in Nigeria. It is an attempt to transcend theory into practice by prescribing a corporate governance culture that has modified Rawls' ethical theory (Principle of humane social cooperation) as its foundation.

ii. Statement of the Problem

The problem as argued in this research is with both the procedure (Original Position) and by extension, the outcome (the principle of justice) thereby necessitating a modification. With the introduction of the 'veil of ignorance' he truncated the logical outcome of the internalization of interdependence of rational and moral persons in social relations, thereby constituting a negation of the pivotal role of his concept of persons. His conception of persons requires that as rational, moral, and self-interested beings, they would be able to deliberate on and choose the rules of engagement, guiding principle of justice that will determine the allocation of rights and duties, the distribution of advantages of mutual cooperation without the pretence

of not knowing the existing structure and system of their society, their political, social and economic realities, their sex, preferences and affiliations etc by hiding behind a 'veil of ignorance'. Their rationality will ensure that they 'take the most effective means to given ends' in their deliberation or bargaining, given that according to Rawls, they are expected 'to presume that even their aims may be as opposed as the spiritual aims of those in different religions may be' (Rawls,1971b:14). Their morality will bring to bear the fact of their internalized interdependence and interconnectedness which will create the awareness about their moral responsibility thereby influencing their reflection on the choice of the principle of justice. It is only reasonable when a person is asked to share a piece of eight inch cake between ten people while another person serves it, that he or she will divide it equally to avoid cheating himself or herself.

Given the design of his hypothetical procedure, the outcome of his just procedure that is, the ensuing principle of justice as fairness is flawed. These principles are, according to Choptiany, neither necessary nor sufficient as principles of justice. The outcome is not the only possibility, there is a possibility of a standoff that could make agreement impossible or may put decision making into the hands of chance, such as, flipping of the coin. Then, it cannot be called a unanimous choice of rational egoists (Choptiany, 1973:148).

John Rawls claims that “at any time we can enter the original position, so to speak, simply by following a certain procedure, namely, by arguing for principles of justice in accordance with these restrictions” (Rawls, 1980: 19). The veil of ignorance is not the kind of restriction that can make the Original Position logically applicable to ethical issues in real life situations.

Rawls’ omission, which is, not explicitly acknowledging the inherence of sentiments or sentimental notions, resulted in his inability to complement his Kantian brand of rationalism with it in a way that could provide the sufficient condition for the formulation of the principles of justice from a social contract arrangement. In the same vein, he excluded competitive market, an essential part of social institution whose reverberating effect upon all aspect of human existence cannot be underestimated in the whole social institution in his formulation and application of his Principle of justice as fairness.

It is important to note that John Rawls acknowledges and sanctions “further and varied extensions of the contract doctrine due to its incompleteness” (Rawls, 1971b:16-17). On this basis, this research argues that for it to be extended and applied, it has to be modified. Also, the flaws undermine the wider applicability of his ethical theory in real life social relation situations, especially in corporate governance, and its ability to inform the structure of just and fair social institution. These also opened Rawls’ elaborate ethical theory to various reworking that does

not make this research unique in its enterprise but rather determined to make it successfully applicable to social relations in general and relations within corporations in particular.

Corporate governance, on the other hand, is beset with its own myriad of challenges that necessitate the input of ethics such as the proposed modified John Rawls' ethical theory. To begin with, corporate organizations irrespective of the size have a legal image that ensures that they manage their affairs in a way that guarantees their survival, make them responsible corporate citizens, such that they use their social power responsibly; promote human wellbeing and the good of the society. This image presupposes a corporate pyramidal structure that is guided by ethical values and codes. Today, it is a common knowledge that this pyramidal image is perceived as a myth, because in reality, this legal image is either absent or has become ineffective. This pyramidal image is such that depicts the strata of authority in an organization where stockholders occupy the base of the pyramid followed by board of directors, and then the managers with the employees at the apex. Where there are no clear-cut demarcations between the board of directors who are charged with oversight functions and the managers, this result in imbalance in the power relation between the board of directors' cadre and the corporate managers. It also engenders lack of checks and balances to check the excessive power and autonomy of these managers. It has been argued that their autocratic power "have proven unacceptably dangerous; it has led to recurring violations of law, conflicts of interests, productive

inefficiency and pervasive harm to consumers, workers and the community environment” (Nader et al: 1976). This is also responsible for blatant disregard for ethical codes and stipulations that ought to guide their goals, strategies and activities. A ready example of this is the situation of mythical pyramid at “Gulf Corporation, where three successive chief executive officers were able to pay out over \$12.6 million in foreign and domestic bribes over a 15-year period without the knowledge of outside or non-employee directors on the board (Hoffman, Moore, 1984: 181). This and other consequences such as corporate tyranny, recklessness, lawlessness, large scale unethical behaviour and fraudulent practices have inadvertently contributed to the global financial meltdown and have eroded public trust. The fallout also entails the perpetration of dehumanization and modern day slavery. Emmanuel Mournier decried the ‘depersonalizing forces’ inherent in the structure and operations of these corporate organizations thus:, “I sin against the human person if I treat my workers as tools, I sin against the human person each time I drive a living person to identify himself with his functions and behave towards him as if he were reduced to these functions” (Mournier, 1985: 738-739).

Lastly, the ineffectiveness of the board of directors, the improper definition of the “governed” whose consent is essential for the legitimacy of corporate authority, the faulty structure and processes of corporate governance, its rigid adherence to ideal of rationality that excludes the role of morality, its narrow definition of corporate social responsibility that limits its impact and inhibits its social consciousness and

alignment are all problems of corporate governance that this study by the integration of the modified Rawls' ethical theory attempts to address.

iii. Aim of the study

The aim of this work is to replace the 'veil of ignorance' with the notion of instrumental reasoning and 'empathic understanding of the other' in John Rawls' principle of justice; and to extend its application to corporate governance. This would establish its capability to bring about social and environmental consciousness and alignment. Along with, its appropriateness to relevant social relations in society; and its capability to address ethical issues within the corporate organizations such that it becomes a paradigm for formulating corporate core ideology.

iv. Objectives of the study

This research has the following objectives:

1. To critically examine John Rawls' Principles of Justice as Fairness.
2. To argue for a modification of John Rawls' Principle of Justice as Fairness elucidating its errors and omissions.
3. To establish the ability of the modified Principle to influence personal values and principles positively such that it results in social and environmental consciousness and alignment in the society.

4. To establish the appropriateness of the modified principle to social relations in corporations and its ability to constitute their core value or ideology that can address ethical issues pertinent to them.

v. Research Questions

The following questions are fundamental to this research and are as follows:

- (a) What is John Rawls' Principle of Justice as Fairness?
- (b) Why does John Rawls' Principle of Justice as Fairness need modification?
- (c) How can the modified Principle of Justice as Fairness evolve social and environmental consciousness in relevant social relations in the society?
- (d) How can this modified Principle of Justice as Fairness inform strategy and policy formulation for corporate governance and social responsibility?

vi. Significance of the Study

The significance of this research lies in its determination to make John Rawls' ethical theory logically consistent and applicable to corporate governance. It attempts this by hermeneutic analysis of his ethical theory, thereby highlighting the problems occasioned by the 'veil of ignorance' which he introduced to create a means of eradicating impediments to his idealized just procedure.

This study introduces the engagement of 'instrumental reasoning' and 'empathic understanding of the other' in place of the 'veil of ignorance'. This is based on the

following reasons: firstly, the whole edifice of liberalism and its modern connotation of libertarianism have as their cornerstone the primacy, potency and potentiality of reason. That is the potentiality of human reason to solve all human problems or at least attempt to solve them, regulate human relations and adjudicate in instances of clashes of interests, claims, goals, etc. This is responsible for their advocating for minimal or no external interference especially that of government in their affairs; their belief in the possibility of solutions to social relations problems through voluntary engagement of reason. It is therefore antithetical to its fundamental character for an ethical theory predicated on the merger of inviolable rights, liberty and equality to hinder the full engagement of reason from reaching its logical conclusion even in an idealized Original Position. Secondly, integrating Kantian rationalism with Sentimentalism by the inclusion of ‘empathic understanding of the other’ in complementary fashion explains the fact of our interconnectedness with ‘the other(s)’ which brings to the fore the natural and emotional ties to each other in conjunction with the notions of dignity, worth and humanity of ‘the other(s)’ as well as in one’s self. This informs one’s reflection about justice in social relations. This is corroborated by Okin thus: “our natural and emotional ties to each other play an integral role in our reflective commitment to justice (Okin 1989: 25).

Furthermore, the inclusion of private society, that is, corporate governance in the formulation and application of Rawls ethical theory by this research is

necessitated by the enormous impact of the role of economics in human lives and in the society. According to Karl Marx the sociological arrangement of society is such that a ‘material base’ consisting of three layers – means of production, forces of production and social relationships of production (system of relations connecting capitalists and workers) – form a foundation on which superstructures of dependent variables such as law, politics, art, religion and philosophy rests (Wolff 1995: 118-120). By implication the societal substructure conditions the superstructure, changes in the substructure evolves corresponding changes in the superstructure. And according to Marx and the Marxists, the economic structure of a society affects other aspects of social life. “States differ according to the class they serve and the economic basis on which they arose... However diverse the form of government, however much it may change, the type of state, its class nature, remains unaltered within the framework of the given economic system” (Afanasyev, 1968: 282). By extension, corporate organizations occupy such strategic position in a society or nation’s political economy that they are referred to as the country’s economic engine.

This research posits that if the omission is addressed, the principle of justice is enabled to establish reasonable justification of moral responsibility and the ensuing social and environmental consciousness and alignment. It enables it to address corporate governance flaws and ethical issues in relations within corporations such as corporate tyranny, large scale unethical behaviour, recurring

violations of law, productive inefficiency, pervasive harm to consumers, the violation of human dignity by perceiving and treating its members (employees) as mere means to an end; perpetrating a sharply pyramidal wage system in an enterprise that is birthed and sustained by effort of mutual cooperation; prioritizing profit maximization above the social and environmental cost and benefits. To bring about the much needed reform in corporate governance, there is need to place emphasis on conscience, renew discussions of ethical problems and create greater awareness of the importance of moral consideration in the formation of management policy (Randall, 1967 cited in Donaldson & Werhane, 1999:138). The modified ethical theory would create a social and environmental consciousness of the need for moral reflection especially as it pertains to social justice in the corporate world. This will ensure an alignment, that is, decisions and actions that reflect the influence of a moral conscience and consciousness that will put consideration of human and environmental wellbeing above profit. It will operate by the sustainability philosophy of triple P, 3P- People, Planet and Profit. (Savit & co., 2006: xii)

The modified ethical theory when applied to corporate governance becomes a part of the constituents of corporations' core value or ideology. Ideology is a framework of ideas a group or community uses to define values and to make them explicit. It is the source of approved ethical standards; it defines the role, responsibility, obligation and the source of the legitimacy of corporate

organizations (Lodge, 1984: 108). That is, it becomes the source of the values that informs corporate policies, strategies which like the stable inner wheel of a gyroscope, function with the free moving pivoting frame of ever changing global social factors, to ensure its stability, progress and ability to perpetually realize its good and the good of the society.

The rationale of this study therefore is to rethink Rawls' ethical theory, modify it, extend it by making it applicable in social relations including relations within corporations and enhance its ability to inform and determine just and fair social institutions.

vii. Scope and Delimitation of the study

This research focuses on John Rawls' theory of justice as fairness in his book *A Theory of Justice*. It is a theory built on both Aristotle's theory of distributive justice and Kant's ethical theory of dignity of persons, treating human beings as ends-in-themselves as contained in his *Critique of Practical Reason and Metaphysics of Morals*. It entails hermeneutic analysis of his propositions and assumptions which will expose the influences of the Enlightenment's sentimentalists, as well as Husserlian and Heideggarian influence on his theory. Consequently, the inclusion of strands of communitarian thought based on Husserlian notions of 'alterity', 'normality', 'intersubjectivity' and 'historicity'. In addition to the sentimentalists' notions of sympathy, empathy, mutual respect,

natural and emotional ties as well as Heideggarian notions of ‘Being-with’, ‘Being-in-the world’ that establish the interconnectedness of all beings. This analysis provides a reasonable grounding of the logical conclusion of the engagement of instrumental reasoning and empathic understanding of ‘the other’ in the Original Position. It also establishes its potential to evolve social and environmental consciousness which forms the bases of subsequent alignment.

The scope of this research is limited to John Rawls’ Principle of Justice as fairness and social relations within corporations. Within this subject, it is further restricted to areas of corporate governance and corporate social responsibility. It is our view that the governance of corporations as well as its consciousness to its social responsibility constitutes an essential aspect of our proposed modification. Furthermore, this work will not claim to offer a one-best solution to all the flaws in Rawls’ ethical theory and ethical issues in the corporate world, or promise absolute superior or absolute ways of thinking and behaving in social relations. Rather it is a contribution to the discourse on the ideas of social justice, just and fair social institutions, fairness, liberty and equality which are perennial issues on philosophical debate roundtable. It will also not pretend that its prescription will be able to single-handedly create and maintain balance in all social relations and in the primary and secondary communities of corporations nor eliminate the vices identified with it in all its modes. The multifaceted changes in the local, national and international environments as they merge into actively integrated global

forces impacting corporations on all fronts makes it almost impossible for this research to make such claims.

viii. Operational Definition of Terms

Alterity: refers to the ‘otherness’ of others, the consciousness of the existence of others with whom one must inevitably relate and interact; it is often counter-posed with the individual, the self, mind and ego. As a concept in philosophy, alterity concerns all questionings associated with the other

Categorical Imperative: It is a Kantian moral prescription which states as follows:

- Act only according to that maxim by which you can at the same time will that it should become a universal law.
- Act so that you treat humanity whether in your own person or in that of another always as an end and never as a means only.

Core ideology: is the framework of ideas corporate organizations use to define timeless core values, fundamental ideals, principles and purpose that go beyond mere profit maximization. It is the source of ethical standards; it defines the roles, responsibility and obligations of corporate organizations. It is specified as core when it constitutes the foundation and roots of corporations, with the ability to continually renew itself from within, thereby making it stand the test of time. This is contrasted with ‘non-core ideology of cultural and operating practices, specific

goals and strategies that are open to change and adaptation to global evolutions of technology and markets.

Corporate Governance: It is simply the administration of corporations in a way that build the reputation of such companies through high productivity, trust and good deeds shown toward their stakeholders; while satisfying competitive demands of the market by complying to laws and regulations that stipulate acceptable business practices as stipulated in their own control systems and stakeholders relationships. While channelling corporate activities toward certain ends, corporate governance get shaped and reshaped by the dynamic interrelationships of all the governing actors.

Corporate social responsibility: It involves an organization's duty and obligation to respond to its stakeholders' and the stockholders' economic, legal, ethical and philanthropic concerns and issues. It entails taking seriously their 'obligations to society' and actively trying to fulfil them.

Empathy / Einfühlung: In Husserl, a primary mode of awareness of the experience of other people. It is the state of being emotionally and cognitively 'in tune with' another person, particularly by feeling what their situation is like from the inside, or what it is like for them.

Equality: It is the fact of being equal in rights, status, advantages; the impartial and equitable administration and application of the rules whatever they are, which define a practice or social institution

Historicity: It is described in terms of normality being justified by tradition and generational influence and therefore being historical, that is, normality being bound by the norms set by tradition and consequently, the normal life is generative and persons are historical and are members of a historical community. Historicity defines the processes that normality entail, what it enhances.

Humane Corporations: are in general terms, corporations that are socially conscious and socially aligned; and that are both human and earth friendly.

Inequality: It is the difference in the benefits and burdens attached to different offices and positions either directly or indirectly, such as prestige and wealth, or liability to taxation and compulsory services.

Instrumental Reasoning: It is the process of drawing conclusions from a set of premises in a way that serves as a means to an end that is, regarding reasoning as a means of achieving some ends. Like ‘means – ends’ reasoning, it entails the process of adapting means to ends. Instrumental reasoning is deliberation that entails drawing logical conclusions from premises such as reasonable justifications of facts and their implications, equal weighing of interests of people who will be affected by a particular action or thing, backed with a willingness to act on the resulting logically concluded deliberation.

Intersubjectivity: It refers to the synthesizing of the different shades of the cognition or perception of reality presented to our world experiences from which evolve a richer understanding of reality. That is, a synthesis of plurality of

normalities enhances objectivity, consensus and better understanding because the particular subjects (normal people involved) are mutually corresponding and harmonious constitutive systems.

Justice: According to Rawls is one of the virtues of social institutions which is not to be confused with an all-inclusive vision of a good society or thought of as identical with the concept of right. In its usual sense, it is the elimination of arbitrary distinctions and the establishment within the structure of a practice or social institution, of a proper share, balance or equilibrium between competing claims.

Normality: It describes the way in which how we act and behave is put forward in advance by previous ways and manners we have acted. That is, our experiences are guided by convention, tradition that is bequeathed to society which everyone follows.

Original position: This refers to John Rawls' hypothetical construct where rational deliberators will behind a 'veil of ignorance' bargain and agree on the principle of justice they will choose to be governed by. It is a form of a just procedure Rawls argues will produce just outcome, the principle of justice as fairness.

Primary Stakeholders in Business: This consists of stockholders, business owners, shareholders, employees at all levels, suppliers.

Reciprocity: It describes the situation that arises when free persons, who have no moral authority over one another and who are engaging in or who find themselves participating in a joint activity, are among themselves settling upon or acknowledging the rules which define it and which determines their respective shares in its benefits and burdens. It is the mutual acceptance and acknowledgement of the ensuing principle that is the concept of reciprocity.

Secondary stakeholders: This consists of consumers, government, host communities, the environment, and future generation.

Sentimentalism: The position in moral theory that sees ethics as founded upon human sentiments such as sympathy and empathy.

Social Relations: This refers to mutual interaction between two or more persons, a group of people which has mutual advantages or benefit for them.

Stakeholder: It describes anyone who is affected by business organizations' activities, decisions and even existence.

Triple bottom line: It is a kind of balanced scorecard that captures in number and words the degree to which any corporate organization is or is not creating value for its primary and secondary stakeholders. This is measurable in economic, environmental and social costs and benefits.

Utilitarianism: It is an ethical theory that answers all questions of what to do, what to admire or how to live, in terms of maximizing utility or happiness; actions

are right in proportion as they tend to promote happiness, wrong as they tend to produce the reverse of happiness.

Veil of Ignorance: This is part of the of Rawls' hypothetical construct, the original position, that serves as the barrier to partiality in the choice of the principle of justice. It is to make it impossible to deploy selfish considerations that favour particular kinds of persons.

ix. Theoretical Framework

Theoretical framework of a research is the idea and principle on which its claims stand; the basis of its assumptions and judgement. It is the idea that supports its arguments and gives defining structure to its propositions. The theoretical framework of this research is ethical personalism, a theory that emphasizes the importance and uniqueness of human beings. It argues that the human person should be the ontological and epistemological starting point of philosophical reflection. It is concerned to investigate the experience, the status, and the dignity of the human being as person, and regard this as the starting-point for all subsequent philosophical analysis" (Williams, 2009).

The variant adopted by this research is the one underpinning Kant's maxims of a Categorical Imperative which is stated thus: (1) Act only according to that maxim by which you can at the same time will that it should become a universal law. (2)

Act so that you treat humanity whether in your own person or in that of another always as an end and never as means only (Kant, 1959:134). He argues that “morality can be summed up in one ultimate principle from which all our duties and obligations are derived” (Rachels, 2003:131). He also asserts concerning the second imperative that the ultimate moral principle may be understood as saying it.

The first part of the categorical imperative has as its basic idea that moral judgement must be backed by good reason such as reason as to whether to do or not to do a thing, which becomes binding on rational agents because they are rational. Kant’s claim is that if one accepts any consideration as reason in one case, one must also accept them as reason in other cases, that is, moral reasons once they are proved to be valid are valid all the times on all people. No rational person may deny this requirement of consistency. The implication of this idea is that there are rational constraints on what a person may do. That is when we act in a certain way for example, violate a rule or we act in a particular way, we do so for a reason that we would be willing for anyone to accept were they in our position (Rachels, 2003:131).

The second part of the categorical imperative indicates Kant’s objective judgement about the place of human beings in the scheme of things based on two important facts about people namely: One, because people have desires and goals,

other things have value for them in relation to their projects. They have value only because they are means to certain ends. Two, that humans have an absolute intrinsic worth (dignity) because they are rational agents. That is, free agents capable of making their own decisions, setting their own goals and guiding their conduct by reason (Rachels, 2003:132).

This is the underpinning idea on which the contractualist theory of Justice as Fairness is based. It is also the pillar upholding this study's claim that in an ontologically real original position, rational persons can come together agree on and propose the fundamental rules of their engagement, the basis of laying claims on one another and the mode of sharing the burdens and benefits of their mutual coexistence and collaboration. These rational persons would through the engagement of instrumental reasoning, empathic understanding of the other and mutual respect, propose fundamental principles that could evolve just, fair and humane social structures and institutions. The idea of ethical personalism eliminates the need for the introduction of Rawls' veil of ignorance.

While for Rawls, the Original Position is guided by the 'veil of ignorance', this research posits that the introduction of veil of ignorance truncates the logical progression of the rational and moral psychology entailed in his conception of person. It hinders the normality of persons and their potentiality in a world of intersubjectivity and interconnectedness. This study's variant is as follows:

The contractees are as Rawls proposes them to be, they are self-interested people. They are rational, possessing a sense of justice and having conception of their ends and life goals. They also have the following:

(a) They are all equal that is, they have the same rights in the procedure for choosing principles, can make proposals, posit reasons for submitting them etc.; this equality is based on the similarity that exists between them first as moral persons and secondly, as beings having a conception of their good and capable of a sense of justice (Rawls, 1980:19).

(b) Their perception of equality entitles them to press their claims upon one another and to see themselves in a condition of social cooperation among equals for mutual advantage.

(c) Each person desires to protect their interests and their capacity to advance their conception of the good life (Rawls, 1980:14).

(d) The contractees are representational of all groups of people existing in the society in terms of race, sex, religion, career, and class etc. not just family heads.

(e) The contractees employ Instrumental reasoning, empathic understanding of the 'other' as having needs, interest, desires that are comparable to one's own; the reality of our interconnectedness, interdependence and intersubjectivity that binds one with the 'others'. This establishes that all are on a par with one another with

the ensuing need for the recognition of the 'other's needs, aspirations and desire; such that this ensures that "we can normally realize our own conception of the good only through co-operative activities with others, that is, 'the self is realized in the activities of many selves'" (Rawls, 1971b:565).

All these are engaged in the process of deliberating on the principles of social justice instead of the veil of ignorance to bring about a just and fair procedure that will produce just and fair ethical theory and social institutions.

This procedure is essentially complementing Rawls' rational choice with sentimentalist notion of sympathy and empathic understanding of the 'other'. This brings about the realization among the contractees and subsequently the larger community that, essential involvement with others necessitates compliance with principles for social cooperation. In addition, these principles count as moral principles only insofar as they can be viewed as principles which we and others would choose to impose upon ourselves because there are reasons for them which respect 'our status as free and equal moral persons'. This is corroborated by Falaiye when he asserts that "every human being depends upon his/her cumulative experiences with others for clues as to how he should view and value himself" (Falaiye M., 2008:40). Thus by internalizing the fact of our essential dependence upon others we recognize the social requirements of this interdependence as moral principles whose application to us is not a limitation of our autonomy, but a

condition of it. And as a possible foundation for social relations and corporate governance, the following moral principles could ensue.

The principles that could be agreed to by all are as follows:

1. Each person must respect the “interdependence of various elements in society on one another and on the social fabric in order for harmonious social relations to be realized, the environment to be preserved and society to benefit from corporations.
2. Each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others.
3. Each ought to operate in a way that acknowledges the needs and interests of all stakeholders and that does not through its operations fray but rather reinforces the network of relationships that ties them together.
4. Social and environmental cost and benefits will always take priority above economic cost and benefits. Instead of profit being the only bottom line it will be a Triple bottom line: of people, planet then, profit. (This is the triple element of the philosophy of sustainability which argue that business activity should be measured in economic, environmental and social costs and benefits) (Savitz, Andrew, Weber K., 2006: xi-xiii)

That is, Social cost and benefit – labour practices, community impacts, human rights, product responsibility.

Environmental cost and benefit – preserving air and water quality, energy usage, waste production.

Economic cost and benefit – sales, profits, ROI (return on investment), taxes, and jobs created.

5. In the distribution of burdens and benefits of mutual cooperation (a) burdens are to be shared in such a way that makes it meaningful and capable of ensuring fulfilment for all. (b) Benefits are to be shared in a way that enhances the actualization of each person's conception of good life and rational plan. (c) Distribution of benefit must reflect the mutual respect for the essence of interconnectedness and interdependence of persons, inform the mode of distribution of scarce resources and must reflect each person's essential contribution to the realization of the benefit.

These principles would evolve from the modified original position procedure and would inform social and environmental consciousness in the contractees as well as the larger community and would guide them into alignment. Implicit in this modified contract theory are ethical values which when infused into corporate governance could evolve fair and just corporations. These values are such that perceive man as a rational being who has ends as well as the capacity to maximize his self-interest and holds liberty sacrosanct. It asserts that men are fundamentally equal to other men, have equal rights and opportunities especially in determining

things or affairs that affect their lives; that men are interconnected beings who flourish within socially established cooperative human activity.

Stakeholders in corporations are human beings that generally act based on their values, beliefs and monetarily motivated strategies; there is need for ethics to influence these actions to the benefit of all stakeholders. Business ethics provides principles and guidelines that assist people in making informed choices that balance economic interests and social responsibilities (Weiss, 2009: 24). In applying this modified form of Rawls' principle of Justice as Fairness to social relations in society and corporations in particular, this study examines how his hypothetical 'original position' can be an ontological reality. Rawls claimed that "at any time we can enter the original position, so to speak, simply by following a certain procedure, namely, by arguing for principles of justice in accordance with these restrictions" (Rawls, 1980: 19). This study proposes that corporations could appropriate this original position as part of organizational arrangement either at the commencement of business or to reform existent ones and could adopt it as part of their core ideology. That is, the original position can have ontological reality at the point when a new corporation is being planned, where the investors, the entrepreneur, the stockholders, the managers, the workers can jointly agree to the terms of their engagement.

This could be a period of initial equality, this equality is that of being stakeholders, where each person comes to the table as an equal member with his or her own interest and conception of how this interest, goal and end will be realized. It is at this stage that the principles of justice will be jointly agreed to and adopted such that it becomes the expression of their values both as individuals and as a social entity; it influences their joint goals and objectives, their social consciousness and sense of social responsibility as well as their environmental consciousness. Rawls opines that, these are principles that free and rational persons (both as primary members and secondary members of the corporate community), concerned to further their own interest would accept in an initial position. The principles of Justice as Fairness modified to suit corporations would then guide and inform contractual agreements between business owners, investors and all stakeholders of the primary community at the inception of engagement and subsequent terms of association and agreement as things evolve in time, and the kind of social cooperation that can be established. This will entail co-deciding the basis for assigning basic rights and duties and to determine the division of social benefits which are the benefits accruing from their joint venture. This original position creates an avenue for both primary and secondary stakeholders of the corporate community to decide in advance and as their spatiotemporal realities evolve how to regulate claims against one another and what the foundation charter of their association should be.

x. Methodology

This research is principally a qualitative library based research which requires in-depth consultation. Therefore, relevant facts from appropriate books, journals, monographs, electronic articles on John Rawls ethical theory, the articles that constitute the groundwork for his *A Theory of Justice*, commentaries on and critiques of his theory, reworking and restructurings of his theory will be rigorously studied. Also, materials that deal with the concepts of corporations, business ethics, social justice, contract theory, communitarian ideals and other related theories which will improve the explication of our research focus, shall be carefully studied, analysed and where relevant incorporated.

The methodology employed in this research work is a combination of conceptual analysis and hermeneutic analysis. Conceptual analysis is essentially a philosophical method of breaking a concept down into more simple parts so that its logical structure is made explicit; “the ideal of analysis had a profoundly healthy effect on philosophy by its insistence on rigorous attention to meaning at all stages of philosophizing” (Blackburn, 2005:13). Philosophers overtime employed this method including John Rawls. Critical conceptual analysis entails three stages which are as follows:

- (a) Analyzing concepts by breaking them down into simpler units.
- (b) Classifying them into different units

(c) Breaking the problems of each component unit down so as to proffer solutions.

In this research therefore, conceptual analysis is employed in breaking concepts such as social relation into constituent units of ‘self’ and ‘the other’; corporation into smaller units of corporate governance and corporate social responsibility as well as split into two the corporate community stakeholders, so as to make explicit their logical structure, connection, interplay, interdependence and in Rawls’ words “so that their full force can be appreciated” (Rawls, 1980: viii).

Furthermore, given the premises of self-interested rational autonomous persons, this study deduced that the introduction of ‘veil of ignorance’ as a means of ensuring a just and fair process of evolving principles of justice was not in the interest of the ethical theory. This is because it undermines its ability to inform just, fair and humane social institutions as well as its applicability in real life social relations. And given the fundamental interdependence of persons in a community, this research deduced that the introduction of instrumental reasoning backed by empathic understanding of the ‘other’ would do justice to the intent of Rawls.

This research advocates issues regarding the perception of individuals, their potentiality given their rational and moral constitution; their situation in an interdependent and interconnected existence that dictates the distribution of benefits and burdens of mutual cooperation in all social relations of the society.

For instance, the perception of all stakeholders in both the primary and secondary communities in corporate organizations will influence the adoption of the modified principle of Justice as Fairness. That is, if both primary and secondary stakeholders are perceived as being in an interrelational web and dynamic interrelationships, it becomes easy to adopt principles of social cooperation. This would then, inform social and environmental consciousness which will subsequently guide the just, fair and humane distribution of the benefits and burdens of the effort of their mutual cooperation in business as real stakeholders.

Hermeneutic analysis is essentially a science of interpretation. It helps this research to bring to the fore inherent notions in Rawls' ethical theory indicative of the influences of Enlightenment's Sentimentalism, Husserl and Heidegger and economic theories on his theory. Thus, enhancing the overall understanding of Rawls' ethical theory; serving as the architect of the theory's modification.

xi. Literature Review

The literature review in this research is two-pronged, an appraisal of literatures on John Rawls and Corporate governance. It begins with John Rawls' ethical theory, an appraisal of its implication for social relations in the society, its potential to engender social consciousness and alignment, and to inform the evolution of just, fair and humane social structures and institutions. It also evaluates the works of critics of his theory. The overall trend in reviews of Rawls' ethical theory is that of criticizing and then positing ways the theory could be better. This research aligns with such agenda. The aim of this review is to point out the lacuna in these reforming efforts and to posit how this study can aptly fill such. It also attempts to establish the critics' point of view, in their review of Rawls' ethical theory. The criteria for analyzing and comparing literature are basically their relevance to the objective of this research in terms of corroborating our claims or whose point of divergence from our claim constitutes a relevant platform of scrutiny. The sequence of this review follows from Rawls chronologically. Not all critiques of Rawls' ethical theory will be included as their inclusion is essentially dependent on their relevance to this research.

The literatures reviewed on corporate governance begins with an appraisal of corporate organizations and the economic system that birthed them, corporate governance and its everyday moral issues. This is followed by literatures that

align with this study's stance of applying Rawls' ethical theory to corporate governance and those that disagree.

John Rawls' Theory of Justice (1958; 1971a; 1971b)

John Rawls' *Theory of Justice* is a moral and socio-political treatise based on Immanuel Kant's conception of man as an autonomous rational being possessing a conception of his life goals and the rational capacity to achieve such goals. By this token, it posits that individuals are not to be manipulated or used under any guise whatsoever as means to any end but should be seen and related with as ends-in themselves (Kant, 2001: 186). Rawls radically expanded this view by positing the rational individual as 'a being having inviolable right that cannot be compromised for anything even the greater good of the society' (Rawls, 1971b:3). The principle of justice was born out of Rawls dissatisfaction with political and socioeconomic institutions that create and perpetrate inequalities in the society. He argues that the notion of just merit and dessert must be relevant in the society of rational men. His proposition to address social injustice and entrenched 'deep inequalities' in the basic institutions of society is the principle of justice as fairness. This is arrived at by the rational decision taken by people who enter into a seemingly contract in a hypothetical original position behind a metaphorical 'veil of ignorance'. The guiding idea is that the principle of justice for the basic structure of society is the object of the original agreement.

They are the principles that free and rational persons concerned to further their own interests would accept in an initial position of equality as defining the fundamental terms of their association. They are to regulate all further agreement, specify the kinds of social cooperation that can be established'. This is what constitutes 'Justice as Fairness. (Rawls, 1971b: 11)

The principle of justice as fairness entails a difference principle, a principle of pure procedural justice that ensures just outcomes for all action and deliberations provided the stipulated procedure is adhered to. Furthermore, it ensures equal liberties, fair equality of opportunity and makes provision for the welfare of the least advantaged group in the society in the distribution of benefits and burdens of mutual cooperation.

The ideas of justice as fairness are expressed in its two principles of justice:

- (1) Each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others.
- (2) Social and economic inequalities are to be arranged so that:
 - (a) They are to be of the greatest benefit to the least-advantaged members of society (*the difference principle*).
 - (b) Offices and positions must be open to everyone under conditions of *fair equality of opportunity* (Rawls 1971b: 303).

First Principle: Each person has the same claim to a fully adequate scheme of equal basic liberties, which scheme is compatible with the same scheme of liberties

for all. The first principle of equal basic liberties is to be used for designing the political constitution, while the second principle applies primarily to social and economic institutions. The first principle affirms for all citizens' familiar basic rights and liberties: liberty of conscience and freedom of association, freedom of speech and liberty of the person, the rights to vote, to hold public office, to be treated in accordance with the rule of law, and so on. The principle ascribes these rights and liberties to all citizens equally. Unequal rights would not benefit those who would get a lesser share of rights, so justice requires equal rights for all in all normal circumstances (Wenar, 2008).

Rawls' first principle accords with widespread convictions about the importance of equal basic rights and liberties which are not to be traded off against other social goods like economic efficiency. Also, the political liberties are a subset of the basic liberties, concerned with the *fair value of the political liberties* rights to hold public office, the right to affect the outcome of elections and so on. For these liberties Rawls requires that citizens be not only formally but also substantively equal. That is, citizens similarly endowed and motivated should have the same opportunities to hold office, to influence elections, and so on regardless of their social class. In the same vein, in the corporate community, both primary and secondary stakeholders are substantively equal, for they are all rational persons who are concerned to further their own interest.

Second Principle: Social and economic inequalities are to satisfy two conditions:

- (a) They are to be of the greatest benefit to the least-advantaged members of society (the difference principle).
- (b) Offices and positions must be open to everyone under conditions of fair equality of opportunity (Rawls 1971b: 303).

The fulfilment of the first principle takes priority over fulfilment of the second principle, and within the second principle, equality of opportunity takes priority over the difference principle. 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. “In all parts of society there are to be roughly the same prospects of culture and achievement for those similarly motivated and endowed” (Rawls 1958:44). The difference principle requires that social institutions be arranged so that inequalities of wealth and income work to the advantage of those who will be worst off. Starting from an imagined baseline of equality, a greater aggregate product can be generated by allowing inequalities in wages and salaries. That is, higher wages can cover the costs of training and education, for example, and can provide incentives to fill jobs that are more in demand. The difference principle requires that inequalities which increase the total product be to everyone's advantage, and specifically to the greatest advantage of the least advantaged. It ensures that the least-advantaged

group does best. Inequalities are to everyone's advantage relative to an equal division, and a more equal division. But the difference principle is not supposed to allow the rich to get richer at the expense of the poor. The difference principle embodies equality-based reciprocity: from an egalitarian baseline it requires inequalities that are good for all, and particularly for the worst-off. (Wenar, 2008)

Besides the omissions earlier mentioned as constituting problem in his theory that this research sets to modify, Rawls' principle of justice as fairness does indeed allow the rich to get richer at the expense of the poor so long as it serves as a motivation for them to aspire to be rich. Rawls is an advocate and apologist of capitalism, he neither claims that it operates perfectly nor does he propose a reformation. He believes in the efficacy of the market forces. He claims that market economy is the best scheme because of its advantages of efficiency, consistency with equal liberties and fair equality of opportunity and citizen's free choice of careers and occupations. (Rawls, 1980: 271) He denies the reality of price wars and other forms of contest for power among firms. He focuses only on representative citizens of various levels claiming that he is not concerned with positions entered into voluntarily such as business engagements thereby neglecting members of the corporate community. He also acknowledges difficulty in categorizing the least advantaged group (Rawls, 1971b:96); and is undecided about which of capitalism and socialism answers best to the requirements of justice.

Kenneth J. Arrow in his article titled “Some Ordinalist- Utilitarian Notes on Rawls Theory of Justice” (1973) reviews Rawls theory from the standpoint of a defender of utilitarianism. He argues that the ethical basis of economic policy is a version of utilitarianism; that the question of distributive justice is an essential constituent of welfare economics and this deal only with distribution of tangible things like goods and services. He argues further that Rawls’ and other philosophers are in error for trying to use this economic principle to distribute intangible goods such as freedom, liberty, self-respect etc. which to economists is impossible (Arrow 1973: 247). According to Arrow, asset egalitarianism is an implication of original position though Rawls severely modifies the practical implication of asset egalitarianism in the direction of productivity principle by incentive considerations. Also, Rawls’ principles of justice are intended to apply to the choice of social institutions and not to the actual ‘allocative’ decisions of society separately (Arrow 1973: 248). Arrow also argued that from the viewpoint of the logical structure of Rawls’ theory, a central question is the extent to which the assumption of the original position really implies the highly specific forms of Rawls’ two rules. His argument that the contractees will prefer more liberty and will not exchange their liberty is clearly an empirical judgement which bears not much weight. And this is quite similar to utilitarianism’s maximizing the sum of individual liberties (Arrow, 1973:249).

In his *A Critique of John Rawls' Principles of Justice* (1973) Choptiany Leonard criticizes the principles of Justice which is supposed to redefine the subject of justice in terms of the social structure of the social system. He argues that Rawls, in contrast to the utilitarians, expounded a contractualist theory of justice based on the notion of fairness and reciprocity, which is an improvement over utilitarian accounts of justice as maximum welfare. Where the utilitarians treat society as a collective person and aim at maximizing its satisfaction without regard for the gains and losses of actual persons, Rawls' conception treats society "distributively" taking into account the autonomy and right to satisfaction of each of its members (Choptiany, 1973: 146). He attempts to prove that the derivation of Rawls' principles of justice did not succeed, by reconstructing his principles of justice. He posits that contract doctrines tread a narrow path between empirical fact and theological construction, while used ostensibly to illustrate the logic of a concept, the device lends unearned credit to the concept or theory if the choice of illustration is attractive in itself. Who could entirely despise Hobbes' notion of sovereignty when told that it saves thousands of unfortunates from a life which is 'solitary, poor, nasty, brutish and short? He argues that Rawls' theory is attractive for similar reasons. Laissez faire capitalist writers like Fredrick Hayek has told us for years that the market is a fair political mechanism because it is agreeable to and permits the functioning of free self-interested agents. But it has never been made clear how being agreeable to egoists makes an institution just. (Choptiany, 1969:

52) Rawls' theory not only fails to provide this explanation, it does claim to have derived the only principles of justice which rational egoists would accept, hence, in the capitalist political tradition, Rawls' rationale for his theory is closer to Hayek than to Kant.

Choptiany argues further that Rawls' principles of justice would not be just even if his derivations were to succeed because they are neither necessary nor sufficient as principles of justice. Also the tone of the difference principle is much too strong, it specifies that inequalities are arbitrary unless they will work out to the advantage of the representative man. But this 'pareto-inclusive' rule prevents any redistribution which lowers wealth of the rich from being considered just. The difference principle is not sufficient either, since it gives no specification of the size of the inequality allowed in comparison with the amount of the advantage provided, any inequality, no matter how great, would be justified by any advantage, no matter how slight, to the 'badly off'. Rawls does not call this perfectly just, but he considers it 'just all the same (Choptiany 1973: 147). He argues further that Rawls' proposed outcome of the original position is not the only possibility there is a possibility of a standoff that could make agreement impossible or may put decision making into the hands of chance, such as flipping of the coin etc. Then, it cannot be called a unanimous choice of rational egoists (Choptiany 1973:148).

Stanley Bates in reviewing Rawls' ethical theory, asserts that he has actually developed in detail a theory of justice and one only realizes how staggering this is if we consider in detail some major works in analytical moral philosophy. Bates argues that most readers of Rawls find it difficult extracting his views and establishing undoubtedly the fulcrum of his theory because there is so much detailed material presented in each of the different sections that one may lose sight of the connection between the sections. The most significant thing about his theory is how he transformed the social contract tradition or at least how he has re-presented Kant's transformation of it (Bates, 1974: 7-8). Traditional social contract theory posits arguments to justify the transition from a 'state of nature' to a civil society as is interpreted in Hobbes, Locke, and Rousseau. It is also posited to justify particular political institutions. For instance, Locke justified Democracy, Hobbes Monarchy. And to justify standards in terms of which political institutions could be judged as being the outcome of a voluntary agreement made by rational self-interested individuals. Since the acknowledgement of these principles or the acceptance of these institutions restricted individuals' behaviour in certain ways; they would only accept them if there are benefits accruing to them in the arrangement which will foster their diverse interests. This tradition emphasizes what might be called 'economic rationality'. Bates argues that Rawls assumes something like an extended model of 'economic rationality' in the original position. However, he does not assume as someone like Hobbes does, that we need

to explain actual moral actions (for instance, adherence to the contract) solely in terms of economic rationality (Bates, 1974: 8).

Bates argues further that, contrary to historical claims and psychological assumptions about the evolution of civil society and the individuals involved made by other contract theorists, Rawls specifically rejected any historical interpretation of his version of the contract theory. He describes a situation in which principles of justice are to be chosen, principles in terms of which judgements concerning the justice of competing claims can be made. Rawls wants to rely on nothing more than limited altruism (or self-interest extended over perhaps, a larger 'self' equivalent to a family) and this is the weakest motivational assumption he can make (Bates 1974: 9). For Rawls, we have a situation familiar in social theory, a simplified situation in which rational individuals with certain ends and related to each other in certain ways has to choose among various courses of action in view of their knowledge of the circumstances. What these individuals will do is derived strictly by the deductive reasoning from these assumptions about their beliefs and interests, their situations and the options open to them. Their conduct is in the phrase of Pareto, the resultant of tastes and obstacles (Rawls 1958:119).

Unlike Bates, Feinberg Joel finds the association of Rawls' theory of justice with a contract theory puzzling. In his article, "Duty and Obligation in a Non-Ideal World", Feinberg argues that labelling Rawls' theory of justice a contract theory in

the order of Locke, Rousseau and Kant is confusing; because, the part of the theory which is a direct rival to utilitarianism and intuitionism does not employ the idea of a contract. Depending on how the rival theories are interpreted, they are either statements of the ultimate principle(s) of right conduct generally or of social justice in particular. Rawls' principles take to be a general test for the truth of specific principles even priority rules, of social justice. The traditional social-contract doctrine was a different answer as we understand it to a different question from that answered by Rawls' contractarianism (Feinberg 1973: 265).

Feinberg argues further that, the contract theory in its Hobbesian and Lockean forms is not so much a general criterion for the truth of the principles of social justice as a statement of grounds and limits of political obligation and the concept of a contract (tacitly actual or hypothetical, among subjects or between subjects and a sovereign) was essential to it. The contract theory as Rawls develops it then is a poorly named but genuine alternative to utilitarianism and intuitionist systems of ultimate justification as the case may be. Like utilitarianism, contractarianism can be applied primarily to individual acts and policies or primarily to more general rules and institutions. Rawls did so much to clarify the distinction between acts and rules and to emphasize its importance in his famous early discussion of utilitarianism, apparently setting the stage for his own rule-oriented brand of 'contractarianism' (Feinberg 1973: 266).

On a similar note, Gastil Raymond D. in his article “Beyond a Theory of Justice” (1974), contested the plausibility of Rawls’ “Original position”. He states that although most philosophers and intellectual laymen are ideologically receptive to the egalitarian tendency of Rawls’ theory of justice, many do not find either the ‘original position’ or what follows from it compelling. Rawls’ original position of selected ignorance appears to some to be too removed from real human condition to have meaning. To others, the wealth and liberty that Rawls specifies as primary preferences are seen as the arbitrary preferences of a twentieth century liberal.

Taking a different stance, Robert Nozick in his *Anarchy State and Utopia* (1974) is mainly concerned with the fundamental philosophical grounds supporting the Difference Principle. Rawls in defending this principle argues that natural assets are undeserved even if the possessors of such assets have put some effort in developing them, ‘that even the preparedness to make an effort to develop one’s abilities will be influenced by many factors – social status, parental support, other natural abilities – possession of which, too, is arbitrary from a moral point of view (Rawls, 1971b: 312). Nozick contends that Rawls’ Difference Principle violates the separateness of persons. It requires that we prevent the better endowed gaining extra material benefits for themselves unless this would also improve the position of the worst off. But this seems to be like using the better endowed, sacrificing one

person's welfare for the sake of another, hence Rawls fails by his own standards (Nozick 1974: 214).

Robert Paul Wolff unlike the others criticized Rawls from a different perspective. Being a former student of John Rawls, he is adjudged the greatest critic of Rawls in that while other critics focused on particular aspects of his theories, he did an extensive work on the whole theory as espoused in *A Theory of Justice*. Wolff asserted in his book *Understanding Rawls: A Reconstruction and Critique of A Theory of Justice* (1977) that 'the key to understanding the theory of John Rawls is to grasp the central idea with which Rawls began his work twenty years ago and then follow its evolution into *A Theory of Justice*'. According to him, Rawls begin in 'Justice as Fairness' with a simple, coherent, comprehensible problem – the Kantian problem of deriving substantive moral conclusions from purely formal premises of rationality - and a brilliant idea for its solution (Wolff, 1977: 496). If Rawls could prove that his principles are the solution to the bargaining game, he would have found a way of overcoming 'the sterility of Kant's formal reasoning'. But as Rawls' theory evolved, it shifted focus; certain elements were added to it which fundamentally transformed the original game. The first of these is the imposition of the veil of ignorance and the second is the replacement of Rawls' second principle by the "Difference Principle" which requires society to maximize the prospects of the worse off members. These changes did not bring coherence

and consistency to Rawls earlier ideas but instead acted to undermine the entire edifice of Rawls' theory and destroyed what was the central idea of the first form of the model (Wolff, 1977: 496).

Strasnick Steven disagrees with Wolff's reconstruction of Rawls' theory adjudging it as 'inverting the actual sequence of the major changes in Rawls' Theory'. He argues that the fundamental problem of justice concerns 'the differences in life prospects which come about in this way'. Principles of justice are required for determining which arrangements of the basic structure and of the distribution of primary social goods produced by it are fair or in other words which would not give members of any particular social class created by it legitimate grounds for complaint. The problem of justice is thus still one of fairness as it was in 'Justice as Fairness', but the fairness at stake is now the basic structure of society in which everyone must begin, as opposed to the structure of the particular on-going practices within a society's basic structure. This change in orientation is significant, for it will require Rawls to transform radically the nature of the bargaining game as he does in *Distributive Justice* (Stasnick, 1979: 504).

Barry Clark and Herbert Gintis from another perspective acknowledge in their article "Rawlsian Justice and Economic Systems" (1978) the merit in Rawls' theory but argue that it has fundamental errors. They argue that his theory has implicit polarity of thoughts and ideas resulting into fundamental dilemmas such

as the marriage of Kantian and Hegelian ethics. The consequence of this being the inability of individual moral choices to achieve social justice in modern liberal societies when individual liberties and authentic democracy becomes meaningless in the absence of individual moral responsibility.

From another standpoint, Michael Sandel in his *Liberalism and the Limits of Justice* (1982) criticizes John Rawls' conception of rational negotiators. He rejects the idea of rational negotiators deliberating as the disconnected and disembodied individuals in the so-called 'original position' who have come together to find out the principles of justice. He argues that Rawls' conception is typical of the liberals' disposition that attempts the understanding of human beings independently of all actions, needs, thoughts, roles and pursuit that distinguish individuals in real society.

Coming from a feminist point of view, Okin Susan Moller a feminist critic of Rawls and other political theorists, in *Justice, Gender and the Family* (1989), criticizes Rawls' theory for not accounting for the injustices and hierarchies embedded in familial relations. That is, injustices found in patriarchal social relations and the gendered division of labor, especially in the household.

Thomas Winfried Menko Pogge however, in *Realizing Rawls* (1989) defends, criticizes and extends John Rawls's *A Theory of Justice*. The defense he claims is necessary to show that some of Rawls' ideas have remained undamaged—and

even largely unrecognized—in the barrage of criticism Rawls has provoked. He intends to show that Rawls offers a sound basis for progress in political philosophy as well as for political progress. He therefore concentrated on two central Rawlsian ideas: first, the focus on the basic structure, for moral philosophy must include, even begin from, a reflection upon the justice of our basic social institutions; second, the maximin idea that a scheme of social institutions is to be assessed by the worst position it generates, that its justice depends on how well it does by its least advantaged participants. He claimed to be centrally concerned with the meaning of the criterion of justice Rawls proposed, with the rationale for this criterion, and with its application to existing and feasible institutional schemes (Pogge, 1989:1).

Michael I. Frazer in his “John Rawls: Between Two Enlightenments” (2007) describes Rawls as an heir of the Enlightenment with his two major strands of rationalism and sentimentalism. He argues that while Rawls shares the Enlightenment’s commitment to finding moral and political principles which can be reflectively endorsed by all individuals autonomously; he usually presents reflective autonomy in Kantian rationalist terms. That is, autonomy that is identified with the exercise of reason and construction of principles of justice acceptable to all on the basis of reason alone. He further argued that Enlightenment sentimentalist thinkers like David Hume, Adam Smith rejects such rationalism in

favour of the search for the principles which can be endorsed by all on the basis of all the faculties of the human psyche, emotion and imagination. Frazer argues that the influence of these sentimentalists on Rawls though clearer in his descriptive moral psychology; it is also evident in his understanding of the sources of normativity. This is a debt obscured by his explicit “Kantianism” whose acknowledgement would have showcased his understanding and would have strengthened his theory.

Thomas Baldwin in his “Rawls and Moral Psychology” (2008), claims that his aims are to elucidate Rawls’s conception(s) of moral psychology and then to explore critically some of the complexities and tensions inherent in his use of it. Rawls tackles the problem of showing how a just society is likely to be stable using these conceptions to provide a basic framework for the activities of its members which they would recognize as congruent with their individual interests. Baldwin assesses how far the moral psychology Rawls relies on to address this problem has an essential social dimension (Baldwin 2008:267).

The review of literatures on corporate governance, both those that corroborate this study’s application of Rawls’ modified theory to corporate community and those that do not are as follows:

Corporate organizations vary in size and reach, are defined by the goals and objectives they set out to achieve and how efficiently they achieve them alongside

a legitimacy bestowed upon them by the society and the public service they render. In the USA of the 1880s, the states' legal authority included granting special charters of incorporation which specified what corporations could or could not do, its life span and its obligation to serve public interest as well as the revocation of the charter of erring ones (Perrow, 2002 cited in Cleggs & Rhodes, 2006:31). "In Massachusetts and New York for instance, charters of Turnpike corporations were revoked for not keeping their roads in repair" (Derber, 1998 cited in Cleggs & Rhodes, 2006:124).

By the end of the nineteenth century, there was a legal revolution that removed the states' legislative authority to regulate corporations, hence no official requirement to serve the public's social and environmental interest except economic interest. Corporate organizations left the management and rectification of the negative social and environmental effects of their economic activities to the government and society (Banerjee, cited in Cleggs & Rhodes, 2006: 58). An example of corporations' ability to externalize cost and justify it is seen in the Kentucky court ruling against the residents of Louisville thus:

A railroad will be allowed to run its locomotives into the heart of Louisville despite the noise and pollution from its smokestacks (the externality), because so necessary are the agents of transportation in a populous and prospering country that private injury and personal damage must be expected (Perrow 2002).

Corporate organizations progressed from externalizing cost of their activities with impunity to abdicating its social responsibility, blatant violations of law, abuse of consumers' trust and perpetration of inhuman treatment of other stakeholders.

This birthed a consistent outcry against corporations, a demand for federal charter to rein in the powers of the corporations then, that is, over 170 years ago and now in the twenty-first century, there is still so much demand for the curtailing of the powers of these corporations through corporate governance and corporate social responsibility that is informed and guided by ethical principles. Some of the criticisms of corporations are as follows:

Harold J. Laski decried the 'undemocratic control of industry by the economic overlords, the managers and directors of corporate organizations who he claims "have skills in financial manipulation ...their power is as massive in volume as it has largely been irresponsible in operation. We have reached a stage in our historical evolution where either their power must be subordinated to the interest of the community or the interest of the community will be a tragic pseudonym for their power" (Laski, 1943: 41)

John Kenneth Galbraith corroborated this when he argued that corporations are managed by men whose primary focus is their security (job, comfort), then profit maximization, hence, the consumer's interest and influence are inconsequential. He also noted that large organizations do have two types of goals the "real goal

which is the actual operative goals which entails securing of their own survival, autonomy and economic growth; and the stated goal which is said to be the maximization of profits, and this stated goal is a pure myth” (Galbraith, 1967:171-178). Galbraith’s analysis of the workings of corporations such as the emergence of a management class that is aggressive in its bid to perpetrate itself, expand its frontiers; ruthlessly pursuing their own personal survival agenda thereby overlooking the place, interest and welfare of the consumers is accurate. These criticisms encompass the questioning of the legitimacy, foundation and purpose of corporations, as well as suggestions of reform as far back as John Stuart Mill.

John Stuart Mill proposed a three pronged reform of corporate organizations thus: firstly by demarcating actions of men into two namely; self regarding actions and others – regarding action; according to him, an individual’s liberty can be interfered with when his actions constitute harm to others as a form of self or community protection. Secondly, he proposes the intervention of government to bring about reform. He argues that given that

the workman is generally the best selector of means, if it cannot be affirmed that the consumer or person served is the most competent judge of the commodity, and if the commodity be one, in the quality of which society has much at stake, the balance of advantages may be in favour of some mode and degree of intervention, by the authorized representatives of the collective interest of the state. (Mill J.S. 1859: 82)

Thirdly, he reviewed his view on the right to property; he argued that property right should not be absolute and advocated for considerable restrictions on the

rights of inheritance and bequest. Mill in the last edition of his *Principles of Political Economy* (1866) maintained that

right to property in land was not sacrosanct; hence if the state appropriated the increase of landlord's wealth or a part of it to the use of the community, it was no violation of the principles on which the right to private property was founded... These additional riches should be properly diverted to the welfare of the working class who were the real producers of wealth from the land". (Gaubu, 2005: 202)

Gaubu asserts that the demarcation posited by Mill was an attempt to define a sphere where an individual's behavior could be regulated in the interests of society. Also, despite his earlier ban on government intervention in the economic system, he later in life conceded that the government really has a role to play in the proper functioning of free market system, especially as it concerns those things that 'are useful as tending to raise the character of human beings' which the market demand may not support sufficiently and which may not be available where they are most needed.

By rescinding the absolute claim to private property on the basis that those who lay claim to it may have come by it through a 'natural lottery' of some sort and that subsequent benefit from it is mostly not as a result of any conscious and purposive effort on their path. Hence, government should take a portion of whatever increase or profit accrues from such a property and give it to their real authors – the working class. By this he laid the foundation for taxation and restriction on the right to property. Thus he conceded and proposed a positive role for the state in

securing community welfare even if it implied curbing the liberty of the individual to some extent. It was in pursuance of his liberal values that Mill sought to lay the foundations of a more humane society and corporate organizations as against the reality of the nineteenth century.

L.T. Hobhouse also built on J.S. Mill's foundation in his *Liberalism (1911)* where he elucidated the basis of property right and the defense for taxation. He argued that the society is an indispensable partner in the original creation, maintenance and guarantee of the prosperity of commerce hence, taxation helps to pay back to society "the element in wealth that is of social origin, or more broadly, all that does owe its origin to the efforts of living individuals. When taxation, based on these principles is utilized to secure healthy conditions of existence to the mass of people it is clear that, this is no case of robbing Peter to pay Paul". (Hobhouse, 1911: 81)

Hobhouse by his analysis removed property from the private domain to the social or communal domain, thereby eroding the basis of claiming any right to property by individuals. He also took away the basis for claiming any glory for any achievement or benefits accruing from property. His analysis placed him in the communitarian fold that holds that it is only within the human community that man flourishes. He established the basis for social responsibility of individuals as well as corporate organizations to the society as against mere responsiveness.

Dahl R. A. also argues that business corporations are created and survive only as special privilege of the state. It is absurd to regard the corporation simply as an enterprise established for the sole purpose of allowing profit-making. One has simply to ask: why should citizens, through their government, grant special rights, powers, privileges and protections to any firm except on the understanding that its activities are to fulfill their purposes? Corporations exist because we allow them to do so (Dahl, 1973 cited in Cleggs & Rhodes, 2006:11).

These outcries and criticism changed the operational dynamics of corporations and a remarkable progress ensued from the industrial era till date. It is of note that it also birthed series of battle of wits between academics, social theorists, business people and even the legal practitioners, for and against the place of moral values and ethical stipulations in the governance of corporate organizations and their social responsibility. A celebrated example is Henry Ford's case. His attempt at social engineering was opposed by shareholders and was charged to court for diverting dividend payment to a social cause which he claimed was to be used "to employ still more men; to spread the benefits of this individual system to the greatest possible number; to help them build their lives and their homes" (Henry Ford, 1919, cited by Reagan 1998). But the court disagreed in its ruling stating that corporate organizations are primarily for the profit of stockholders and that their directors cannot operate for "the mere incidental benefit of shareholders and for

the primary purpose of benefitting others” (Banerjee, cited in Cleggs & Rhodes, 2006:63). Subsequently, the definition of the scope of ‘incidental benefits of shareholders and benefits to others’ as well as their appropriateness in corporate governance and social responsibility since then, dominated the business ethics discourse.

While there are two camps, those for and against the concept of corporate social responsibility, the importance and the emancipatory intent of corporate social responsibility has unfortunately become mere rhetoric, successfully hijacked by large corporations and redesigned to serve their interest (Banerjee, 2006: 64). This can be explained starting with the theoretical assumption of corporate governance. According to Waddock, the rationale underpinning corporate social responsibility discourse is that corporate organizations should think beyond making money/profit and consider social and environmental concerns. They should behave ethically and demonstrate highest level of integrity and transparency in all their activities as well as having cordial relations with their operating environment, enhance their social welfare and provide community support (Waddock, 2001). Regrettably, these assumptions were distilled into principles that were seamlessly integrated into corporate policies, ethical codes and norms. The consequence of this is the current reality of corporate organizations. According to Banerjee, an example of this debacle is Enron, a large multinational corporation whose corporate responsibility annual report claims that:

The principles that guide its behavior are based on its vision and values and are as follows:

Respect: We will work to foster mutual respect with communities and stakeholders who are affected by our operations

Integrity: We will examine the impacts, positive and negative of our business on the environment, and on society and will integrate human, health, social and environmental considerations into our internal management and value system.

Communication: We will strive to foster understanding and support our stakeholders and communities, as well as measure and communicate our performance.

Excellence: We will continue to improve our performance and will encourage our business partners and suppliers to adhere to the same standards (Enron, 2002, cited in Clegg & Rhodes, 2006:66).

Enron Corporation, once the seventh largest company in USA, despite its impressive glossy corporate social responsibility report, dedication to ethical code and commitment to “conduct its business affairs in accordance with all applicable laws and in a moral and honest manner”, crumbled into bankruptcy in December 2001 with a devastating effect on the nation’s economy. Having operated in an unethical manner, using all manner of accounting tricks to hide billions of dollars of debt and making failing ventures appear profitable (Weiss, 2009:28).

Going forward, this study’s discourse transcends the debate of the place of ethics in corporate governance into deliberations of how to bring about commitment to existing corporate ethical codes. Our argument is that applying a modified form of Rawls’ principle of justice to corporate governance and social responsibility would bring about social consciousness and alignment that would make it effectively

address some of its ethical issues. Some of the literatures in agreement with this agenda are as follows:

Jurgen Habermas' idea in his *Discourse Ethics* is the closest to the idea of this research. He argues for the lifting of the Rawls' veil of ignorance, demanding that we participate in a discourse where all are fully aware of the other's perspectives and interpretations. Transcending Kant's categorical imperative, he argues for the consideration of the viewpoints of everyone who would be affected by the adoption of certain moral action or normative claim. He also positions the moral point of view within the communication framework of a community of selves.

He advocates the conditions for developing universal norms, that is, universally valid claims as when there is 'original freedom' of members of a community to contribute, criticize, reject, accept and establish a norm or procedure without internal or external coercion. Another condition is 'equality', that all participants have an equal voice in the discussion regarding proposed norms and procedures. And this evolves 'consensus' - the uncoerced agreement of all who are affected by a proposed norm or procedure.

He proposes three principles essential for arriving at a consensus in generating norms for a community which are as follows:

Principle 1- A principle of universalization that sets conditions for impartial judgment by constraining all affected to adopt the perspectives of all others in the balancing of interests. All affected can accept the consequences and side effects that a proposed moral norm's general observance can be anticipated to have for the satisfaction of everyone's interests. (And these consequences are preferred to those of known alternative possibilities for regulation).

Principle 2 – Only those moral norms can claim to be valid that meet or could meet with the approval of all affected in their capacity as participants in a practical discourse.

Principle 3 – Consensus can be achieved only if all participants participate freely. We cannot expect the consent of all participants to follow “unless all affected can freely accept the consequences and the side effects that the general observance of a controversial norm can expected to have for the satisfaction of the interests of each individual” (Habermas, 65, 66, 93).

Habermas agrees with the necessity of removing the veil of ignorance and emphasizes other constraints compatible with a rational discourse. He also alludes to empathic understanding of others and mutual respect in the course of the discourse by emphasizing consideration for the interpretation and perspectives of ‘others’ affected (or that would be affected) by the agreed upon norms. He corroborates our argument which in agreement with David Ingram is that

“community members’ participation in discourse will be “unobstructed by ideological prejudices, temporal limitations and external domination be it cultural, social, political or economic” (Ingram, 1990: 148) without the veil of ignorance.

Freeman Edward R. and Gilbert Daniel R. Jr., In their book *Corporate Strategy and The Search for Ethics* (1988) proposes that the search for excellence in business is intimately connected to ethics and so corporate strategies must be informed and guided by ethical reasoning especially the notion of individual right. In their attempt at explicating systematic ways to connect ethics and corporate strategy, they propose seven flavours of ‘Enterprise Strategy’. Among these is “Rawlsian Enterprise Strategy which is based on the notion that: Corporations should promote inequality among stakeholders only if inequality results in raising the level of the worst-off stakeholders”. (Freeman and Gilbert 1988:72) Their work translates Rawls’ two principles directly as corporate strategy thus:

Corporation should promote a maximum amount of liberty, such as freedom of speech, religion, participating in important decisions that affect stakeholders in the corporation. If some groups have more wealth or other basic goods than others, then the corporation and its managers have an obligation to raise the level of the least well-off stakeholder group. The corporation must take great care to see that its offices and privileges are truly open to everyone, regardless of race, sex and other morally irrelevant indicators” (Freeman & Gilbert, 1988:81)

They claim it is a complex strategy to adopt. Precisely, they were skeptical about the appropriateness of its adoption for any company and that deciding the real worse-off group is not clear-cut. As such, they believe that this device may not

operate in the interest of the shareholders. They however, posit an alternative namely, Personal Projects Enterprise Strategy which states that: Corporations should be means for individuals' achievement and flourishing and not as collective ends in themselves where individuals have to subordinate their own goals to those of the corporation. This argument corroborates this study both in its adoption of Rawls principle of justice as a plausible enterprise strategy and for positing a strategy that holds the individual right and autonomy of individuals, especially, the employees sacrosanct. But this strategy fails to incorporate the fundamental structures that would make Rawls' principle applicable to the business sphere. They also fail to determine the least privileged group, and in their preferred strategy, make provision only for the protection of employees to the exclusion of other stakeholder groups. They do not concern themselves with the sustenance of the corporation and even advocates against it. These failures outlined will be adequately taken care of in this work.

Collins James and Porras Jerry I in *Built to Last: Successful Habits of Visionary Companies* (1994) stipulate essential prerequisite for successful corporate governance. They highlight the basic requirements visionary business enterprises must imbibe and inculcate to become lasting enterprises. According to them, "highly visionary behavior occurs when the company does not view business as ultimately about maximizing profitability" (Collins, Porras, 1994:102). They

identify some essential tenets such as differentiating between core and non-core values, those values that must be preserved and those that need to adapt to the changing strategies, cultural and technological environment. They through their extensive research and discoveries debunk with facts several myths about business enterprises. This research attempts to give a philosophical grounding to these revolutionary ideas. In the same vein, Collins, J. in *Good to Great* (2007) posits ideas for corporate governance based on extensive research into the determinants of corporate transformational greatness. He identifies certain “key determinants of greatness” that not only sustain the greatness of business enterprises but also help mediocre businesses to be transformed into truly great and enduring enterprises. Some of these key determinants are “level 5 leadership”, “a culture of discipline”, “having the mindset that technology only aids and accelerates momentum” and so on. This research attempts to provide a philosophical grounding for these ideas and connect them to how corporate organizations can become truly great by being guided by the proposed ethical values.

Jim I. Unah in his article “The Obligatory Theory of Corporate Social Responsibility: A Discourse on Business Ethics” identifies the deficiency in the major theories underpinning corporate social responsibility namely: Agency theory and Stakeholder theory. He argues that they are exploitative and exhibit blatant self-centeredness. He however proposes an Obligatory theory which is based on

the Kantian moral theory that corporate social responsibility is basically a call to duty which does not entail expectation of reward by the corporations.

Weiss Joseph W. in his *Business Ethics: A Stakeholder and Issues Management Approach* (2009) describes the challenges faced by corporations in 21st century democratic society. He outlines the rapidly changing environments business enterprises operate in coupled with competing stakeholders and power claims. He identifies the environmental forces that affect and influence business stakes such as its survival, growth cum expansion, performance and operation of business, organizations and jobs as follows: “(1) economic environment (2) technological environment (3) government and legal environment (4) demographic and social environment. He posits a Stakeholder Management Approach which he argues is “a way of understanding the ethical effects of environmental forces and groups on specific issues that affect real time stakeholders and their welfare”. (Weiss, 2009: 3-7)

He advocates for an approach to the dilemma of corporations in contemporary globalized times that enables individuals and groups to articulate collaborative win-win strategies that are based on identifying and prioritizing issues, threats and opportunities; defining stakeholders and what their stakes, interests and power sources are; noting those who may or may not form coalition; showing what each stakeholder’s ethics should be; and developing collaborative strategies and

dialogues (Weiss, 2009:8). His idea clearly aspires to bring about just, fair and humane corporations in a global market. His stakeholder approach is similar to the stance of this research, but his proposal is a permissible approach to capitalism, its inherent faults and global challenges. It claims that there is no clear-cut ethical solution to business and organizational problems. His approach blurs the line between possibility and efficacy of ethics to guide business enterprise. He argues that “ethical principles alone cannot answer to the famous Paul Tillich quote “the courage to be” in serious ethical dilemma or crises” (Weiss, 2009: 9). His claim that “being able to balance local cultural norms, a company’s norms and competing business practices involve creative and responsible navigation and decision-making skills based on personal, professional, company and universal values” (Weiss, 2009: 465); is a very sound one but is lacking a fundamental fulcrum which this research work aims to provide. This structure is essential for knowing and choosing the value upon which these balancing acts will be based on. Furthermore, his employ of ‘hypernorms’ and ‘moral free space’ gives no definite direction and it is susceptible to manipulation by stakeholders. This research offers a more definite direction that as much as possible leaves no room for manipulation in decision making.

In a similar manner, Stevens Cleve in his “Time for a New Humane Capitalism ... or Else” (2010) accuses capitalist societies and corporations of a culture of “greed

is good”. It is a type of corporate governance that is “simply unsustainable, an approach to industry that is not only bad in some ethical sense, but it is fundamentally impractical in a business sense. It does not and cannot work long term”. He then proposes a solution he argues is thoroughly humane, highly pragmatic and results oriented, whose ethos is that “Doing good and doing well are not in conflict”. He claims that for long-term sustainability, for lasting success; to do good to all stakeholders and running business efficiently, require one another. He claims that it is a version of a leadership methodology known as Transformational Leadership, an approach that stipulates that when the leadership of the organization systematically places the development and well being of their people above profits, paradoxically, profits surge "up and to the right," and success is readily sustained. He explains that it is a way of approaching leadership from a rigorous mindset that says “my job as a leader is to grow my people (and myself) such that at the end of the day they are not merely better organizational players and employees, but they are better people - better parents, spouses, friends, members of the community - fundamentally better human beings”. Cleves’ idea is truly an idea about humane corporations, but it focused only on what this research regards as the primary stakeholders of the corporate community to the exclusion of the secondary stakeholders. It also did not concern itself with the essential structure of corporations that will inform and guide the operations of corporate governance such that the rules of engagement and operation for all stakeholders results in

humane corporations; and his transformational leadership scheme is not only enhanced but sustained. This gap is what our research sets out to fill.

However, Abraham Singer rejects the application of John Rawls to corporate governance and business ethics. In his paper, “There is No Rawlsian Theory of Corporate Governance” (2015) he argues that Rawls’ liberal political philosophy is not compatible with the nature of corporations and that corporations do not fit into Rawls’ ‘Basic structure’. Rather, corporations belong to the “realm of the voluntary and associational. As a result, a thoroughgoing critique of corporate governance cannot be accomplished through a theory expressed in “political” terms; Rawls’s theory is of no use for the big normative questions of business ethics and corporate governance”. He claims that Rawls did not intend for his principles either in form of the original position or the difference principle to be applied to corporations.

He concludes that if we must apply Rawls, we can only “apply the spirit of his critique” to the corporation which is not compatible with his “larger vision of a liberal plural society. Because a political approach to business ethics and corporate governance requires an even more complicated and nuanced theoretical apparatus than the one Rawls has given us”. Abraham’s arguments and position instead of contradicting the objectives of this research, merely points out some of the inadequacies we already noted and buttressed our reason for modification.

This research proposes to modify Rawls' principle of justice as fairness in a way that will eliminate inherent inconsistencies so as to be able to evolve social and environmental consciousness and alignment that would make it applicable to social relations with a particular emphasis on corporate governance.

xii. Contribution to Knowledge

This research established the following:

- This research provides an hermeneutic analysis of John Rawls' ethical theory
- This study established that a complementary engagement of rational choice of contract doctrine and sentimentalism would make Rawls' ethical theory applicable to social relations and enable it inform just and fair social structures and institutions.
- The modified ethical theory could evolve in persons, reasonable social and environmental consciousness and alignment essential for developing values in persons that fosters harmonious social relations in the society
- Contrary to Rawls' assumption, the modified ethical theory would inform core ideologies of corporations that will ensure that their social relations with both primary and secondary stakeholders will be just, fair and humane.
- This research established that if implemented in Nigeria, it would bring about harmonious living in the society, bring about just, fair and humane social structure and institution and evolve just and fair social relations in corporations.

CHAPTER ONE

INFLUENCES ON JOHN RAWLS' MORAL PHILOSOPHICAL

1.1 Introduction

This study argues the thesis that Rawls' ethical theory will have wider application in social relations especially in corporate governance and be able to evolve social consciousness and alignment if its Original Position is modified. To embark on this there is need to understand John Rawls. This chapter is therefore dedicated to the exposition of John Rawls' life experience, what he did, what informed his ideas and his influence on the socio-political world especially the academia. John Bradley Rawls (1921-2002) is an American reputed to be an egalitarian –liberal philosopher.

1.2 The Background to John Rawls' Moral Philosophy

John Rawls' experience as an infantry man during the World War II and the effect of witnessing the consequences of the bombing of Hiroshima had a very great impact on his philosophical posture, especially on his research into moral philosophy. In the 1960s, Rawls spoke out against the US involvement in Vietnam. The Vietnam conflict impelled Rawls to analyze the defects in the American political system that led it to prosecute so ruthlessly what he saw as an unjust war. Having turned down an offer to become an officer, he left the army as a private in 1946. Thereafter, he returned to Princeton to pursue a doctorate in moral philosophy. He proposed a theory of justice

based primarily on his understanding of the nature of man, the various ideas of his time, those preceding his idea and his prevailing experience. He presented a conception of justice which generalized and carried to a high level abstraction a familiar theory of social contract. He also sought to reconcile equality with liberty. His thesis on civil disobedience is as a result of his conviction that if the government policies become not only aggressive but unpopular policies, the people have the right to conscientiously resist or revolt through civil disobedience.

Furthermore, the prevalent condition at the time Rawls developed his ideas was a time of widespread utilitarianism, liberalism and diverse strains of liberal ideology and this had a great role to play in his writings such that he was contesting, refuting or reforming some of these ideas in his writings. The influence of his work in socio-political, ethical and academic discourse is phenomenal. John Bradley Rawls died on November 24, 2002 at the age of 81 in Lexington, Massachusetts.

1.3 Cultural and Intellectual Influences on John Rawls' Thought

Rawls studied at Princeton, where he was influenced by Wittgenstein's student Norman Malcolm. And at Oxford University, he worked with the legal theorist H. L. A. Hart, the liberal political theorist and historian, Isaiah Berlin, and Stuart Hampshire. He was also influenced by Hume, Leibniz, Kant, and Hegel and on

Hobbes, Locke, Hume, Mill, Marx, Sidgwick and Butler, he gave extensive lectures. It is obvious that his interpretations of these authors informed his own theorizing.

Hegelian and Kantian ethics played great roles in his thinking and writings such that he did a lot of interpretations and reworking of Kant's ideas such as the four Kantian activities: 1. Identification of the problem; 2. The engagement with common sense; 3. The construction of principles; 4. The authentication of principles. In his *A Theory of Justice* (1971b), he identified his theory as Kantian and in his *Lectures on the History of Moral Philosophy* (2000), he detailed his indebtedness to Kant; he placed Kant at the centre of his account of history of moral philosophy and examines Hume, Leibniz and Hegel primarily to clarify Kant (Tampio, 2007).

His *A Theory of Justice* (1971b) reflected the influence of the social sciences like Bandura's social imitation theory, the development psychology of Piaget and Kohlberg which he used to analyze commitment to concepts of justice (Rawls, 1971b: 255) and so on.

Rawls' writings also showed a tremendous influence of economic theories of his time; he vacillated between the theories of classical political economists and the contemporary economic theories of the 1950s, having recognized the intellectual tension between classical political economy and modern economics. For instance, Rawls' design of the Original Position and even the veil of ignorance is fashioned in the modern economics' thought which is linked to a rational actor model with a highly

abstract conception of rationality; instead of classical political economists' which had a richer conception. But he chose these conceptual frameworks to capture the social contract view of unanimity and fairness in the tradition of Locke, Rousseau and Kant. He found contemporary economic theories like decision theory, game theory, and social choice theory particularly relevant to his philosophical schema.

1.4 Problems John Rawls Tackled

According to Rawls, the problems he tackled were that of the evident “obscurities of the principles of utilities, apparent incongruities between many of its implications and our moral sentiments” (Rawls, 1980: 29). Rawls proclaimed that his aim was to create an elaborate and comprehensive theory that would unseat the prevalent and predominant forms or variants of the theory of utilitarianism, which has been unsuccessfully opposed by previous philosophers. According to him, the reason for the consistent previous failures was that utilitarianism

...has been espoused by a long line of brilliant writers who have built up a body of thought truly impressive in its scope and refinement. We sometimes forget that the great utilitarians, Hume and Adam Smith, Bentham and Mill, were social theorists and economists of the first rank and the moral doctrine they worked out was framed to meet the needs of their wider interests and to fit into a comprehensive scheme. (Rawls, 1971b: vii)

This evolved overtime in the society, basic institutions of society that favour certain starting places over others in a pervasive way such that it determines their initial chances in life and life prospects. This he argues portends deep inequalities that

should be eradicated. This is the crux of his crusade and this is the cornerstone of his theory.

1.5 John Rawls' Writings:

Rawls' *A Theory of Justice (1971b)* evolved from a series of ideas expressed in papers and articles spanning over 12 years. This book elicited much controversy and criticism which, while he held on to his core argument, made him modify, clarify and re-organize his theory substantially in subsequent works such *Political Liberalism(1996)*,*The Law of Peoples(1999)*, the most complete statement of his views on international justice, and shortly before his death in November 2002 published *Justice As Fairness: A Restatement(2001)*, a response to criticisms of *A Theory of Justice*.

A list of his writings is as follows: group 1:

Outline for A Decision Procedure of Ethics (1951)

Two Concepts of Rules (1955)

Justice as Fairness (1958)

The Sense of Justice (1963)

Constitutional Liberty (1963)

Legal Obligation and the Duty of Fair Play (1964)

Civil Disobedience (1966)

Distributive Justice (1967)

Distributive Justice: Some Addenda (1968)

Justice as Reciprocity (1971)

These are major papers John Rawls wrote between 1955 and 1971 before his *A Theory of Justice (1971b)* published in *Collected Papers (1999)* edited by Samuel Freeman.

These also represent the early writings of John Rawls.

Group 2:

Kantian Constructivism in Moral Theory (1980)

Themes in Kant's Moral Philosophy (1989)

Political Liberalism (1996)

Laws of the Peoples (1999)

Lectures on The History of Moral Philosophy (2000)

Justice as Fairness: A Restatement (2001)

Most of his writings in the early years bore the indelible mark of economic theories of economists such as Von Neumann, Morgenstern, Luce, Raiffa, Kenneth Arrow and John Harsanyi which are contemporary economists of the 1950s. He also focused on several areas such as welfare economics, social choice theory, and game theory. Rawls' writings did not contain significant or substantive discussion of these economists' views rather; he demonstrated a philosophical point by finding a relevant theoretical claim in one economist or another; which is indicative of a degree of familiarity with the contemporary literature, but a fairly low level of intellectual

engagement with their debates and analytical approaches. This approach is unlike his handling of utilitarianism, Kant, or Rousseau.

Rawls, having recognized the intellectual tension between classical political economy and modern economics, he also used extensively the ideas of classical political economists. For instance, his framework for thinking about our contemporary economy is closer intellectually to Classical political economists like Mill, Ricardo, and Marx than it is to modern economists' like Pareto and Samuelson.

Rawls' definition of the foundation of his theory of justice, the Original Position entails classical terms such as the interests of the hypothetical deliberators in the Original Position which is a set of primary goods - material resources and liberties. These are "things which a rational man wants whatever else he wants" (Rawls, 1971b:92). Rawls' definition of the situation of deliberation within the Original Position is one that focuses on primary goods, not subjective utilities of modern economy. And this is much closer to a classical assumption about economic interests and the human good than it does a modern assumption. It offers an objective and realistic assumption about what people need in order to live decent lives. Furthermore, Rawls' rejection of utilitarianism, his establishment of unanimity rule among deliberators, his choice of the 'maximin' rule, which stipulates that the participants will each choose the path that has the least-bad worst outcome as the decision rule, are indicative of classical political economy. Rawls argues that when participants deliberate among institutional alternatives from the perspective of the 'maximin' rule,

they will choose a governing norm like the difference principle. Here Rawls draws on Kant, to recognize that the way that or procedure through which social outcomes arise is morally as important as the value of the outcomes themselves.

1.6 John Rawls' Influence

His major work, *A Theory of Justice* influenced the study of political thought in Anglo-American philosophy and has been a landmark for all subsequent discussion. (Blackburn, 2005) It was hailed at the time of its publication as "the most important work in moral philosophy since the end of World War II," and is now regarded as "one of the primary texts in political philosophy." His work in political philosophy is dubbed "Rawlsianism".

He is one of the major thinkers in the tradition of liberal political philosophy. English philosopher Jonathan Wolff argues that "while there might be a dispute about the second most important political philosopher of the 20th century, there could be no dispute about the most important: John Rawls. His student Samuel Freeman says that Rawls' work will be recognized 'for centuries to come.'" (Wenar, 2008)

Rawls taught for almost forty years at Harvard University where he trained some of the leading contemporary figures in moral and political philosophy, among whom are Robert Nozick, Martha Nussbaum, Thomas Nagel, Onora O'Neill, Adrian Piper,

Christine Korsgaard, Susan Neiman, Claudia Card, Thomas Pogge, T.M. Scanlon, Barbara Herman, Joshua Cohen, Thomas E. Hill, Jr. and Paul Weithman.

According to Wenar:

the greatest contribution Rawls made to contemporary economics is his strong and philosophically convincing case for primary goods and his definition of a good life. His rationale for primary goods is that a person's ultimate goals are set by his or her conception of the good, and there is no reason to expect there to be a common agreed-upon standard for the conception of the good. It is logical, however, to observe that there are some goods that every individual requires in order to pursue any conception of the good: access to material resources and liberties. This seems like a nod towards the moral worldview of classical political economy (Wenar, 2008).

John Rawls is indeed a pacesetter in moral and social political philosophy. Being reasonably well acquainted with both the history of economic thought and contemporary economics of the 1950s and utilized some aspects relevant to his philosophy agenda. He substantially constructed an alternative to the utilitarian theory with his Principle of justice as fairness. This made way for a more humane ethical theory.

CHAPTER TWO

THE FUNDAMENTALS OF JOHN RAWLS' ETHICAL THEORY

2.1 Introduction

This chapter's focus is on the fundamentals in John Rawls' ethical theory, the main idea he upheld, how successfully he portrayed his ideas and various assessment and criticism of his work. John Rawls is a liberal egalitarian who attempted to bring together the ideals of liberty and equality in his ethical theory. He argued that social and economic inequalities can only be allowed and justified when they are compatible with fair equality of opportunity while contributing to raising the position of the least advantaged in society. This view is encapsulated in his 'difference principle' that asserts that "social and economic inequalities are to be arranged such that both are reasonably expected to be to everyone's advantage especially the worse-off and are to be attached to positions and offices open to all" (Rawls, 1971b: 60). But first, what is an ethical theory? What is ethics?

2.2 Ethics and Ethical Theories: An Overview

Ethics essentially concerns values, principles, attitudes, patterns of behavior of members of a community. It systematically studies how their interactions and relations enhance social harmony. It is the study of the concepts involved in practical reasoning; good, right, duty, obligation, virtue, freedom, rationality and choice. It is also the second-order study of the objectivity, subjectivity, relativism or skepticism

that may attend claims made in these terms (Blackburn, 2005:121). Ethics is the study of what is good or right for human beings (Hoffman & Moore, 1984:1). Ethics is also defined as an investigation into the fundamental principles and basic concepts that are or ought to be found in a given field of human thought and activity. It is considered a theoretical study whose subject matter is the systems that are intended to guide the lives of individuals in the society (Flew, 1979:105). A dynamic working definition of ethics states that “ethics is concerned with clarifying what constitutes human welfare and the kind of conduct necessary to promote it” (Powers, Vogel, 1980: 10).

Morality minimally can be defined as the effort to guide one’s conduct by reason, that is, to do what there is the best reasons for doing while giving equal weight to the interests of each individual who will be affected by what one does (Rachels, 2003: 14). Moral principles are appraised in terms of the contribution they make or fail to make towards the purpose or meaning of life.

Ethical theories are different ways of looking at ethics and morality that is intended to have explanatory implications. Ethics is essentially practical and has its role in addressing genuine problems in life especially in human interactions. Ethical theory serves as the foundation for ethical solutions to the difficult situations people encounter in life (Panza, Potthast, 2014:1). Examples of ethical theories are virtue ethics, utilitarianism which has two distinct forms – deontology and consequentialism, ethical egoism, categorical imperative, relativism, ethics of care etc.

Virtue ethics describes a moral person as having certain traits of character such as being kind, generous, courageous, just, prudent etc. Virtue ethics requires that an individual has virtues or presupposes that for an individual to be moral, he must first and foremost possess virtues. Therefore to live ethically or morally is to develop and demonstrate virtues (character) and to avoid demonstration of vices (Panza, Potthast, 2014:1). John Rawls' theory presupposes that the persons in the Original position possess virtues and that they are moral and rational.

Consequentialism is the ethical principle that asserts that the end justifies the means, end here being the consequences of actions, net benefit over cost, greatest good for the majority or greatest number of people. That is, the consequences of an action are the sole factors to be taken into account in determining whether an action is right or wrong. Good consequences make right actions (Hoffman, Moore, 1984:5). Consequentialism guides the deliberators in Rawls' Original position as they deliberate over the conception of the principle of justice.

Deontology contradicts consequentialism. It is a duty based principle that holds that it is one's duty to do the right thing always irrespective of its long or short term consequences. It is informed by principles such as justice, fairness, rights, honesty and respect (Rachels, 2003:18). That is, a right action is right simply because it satisfies the demands of justice, because it respects the rights of others or because we have promised to perform it (Hoffman, Moore, 1984:5).

Universalism/Kantianism/Categorical Imperative is an offshoot of deontology and it holds that moral actions are based on one's duty to others and humanity. Kant argues that one ought to perform right actions not because of their consequences but because it is our duty to do so. Moral commands are 'categorical imperatives' which are absolute and unconditional (Kant, 2001: 186). They stipulate that in taking any decision or action, it should be such that one would be willing that it becomes a universal law to do so. That is, each person ought to act in a way one would will to be a universal maxim (Rachels, 2003: 19). The second formulation of the categorical imperative upholds the rights of human beings. He advocates respects for human beings because they have a value in and of themselves which we are duty bound to respect (Hoffman, Moore, 1984: 10). Hence, each person ought to act in a way that respects and treats others as ends and not as means to an end.

Utilitarianism as proposed by Jeremy Bentham states that people ought to act so as to promote the greatest total balance of good (happiness or pleasure) over evil; or the greatest good for the greatest number of people (Hoffman, Moore, 1984: 7). That is, the amount of happiness and suffering created by a person's actions is what really matters. Thus, acting rightly involves maximizing the amount of happiness and minimizing the amount of suffering around you (Panza, Potthast, 2014:1).

There are two variants of utilitarianism – Act utilitarianism and Rule utilitarianism.

Act utilitarianism states that one ought to act so as to maximize total good and sometimes you may even need to break some of the traditional moral rules to achieve such an outcome.

Rule utilitarianism states that rules are in the public's interest and are to be obeyed whether or not doing so leads to the best consequences. This is because the presence of the rule itself and consistent adherence to it does promote the general welfare.

Utilitarian principle underlies the cost-benefit analysis technique that stipulates that when the painful consequences of an act are subtracted from the pleasurable ones, the total reveals the act's moral quality (Hoffman, Moore, 1984: 7).

Contract Theory proposes thinking about ethics in terms of agreements between people. Doing the right thing means abiding by the agreements that the members of a rational society would choose (Panza, Potthast, 2014:1). That is, rational persons can come together, agree on and propose the fundamental rules of their engagement, the basis of laying claims on one another.

Contractarianism is a contractarian approach to problems of ethics which asks what solution could be agreed upon by contracting parties, starting from certain idealized positions. **contractualism** sees the right thing to do as one that could be agreed upon in a hypothetical contract, such as proposed by John Rawls (Blackburn, 2005:78).

So for contract theorists, ethics isn't necessarily about character, consequences, or principles. It is a means of resolving ethical issues or dilemmas.

Care Ethics focuses ethical attention on relationships before other factors. As a result, acting rightly involves building, strengthening, and maintaining strong relationships. Acting rightly thus displays care for others and for the relationships of which they are a part. To care ethicists, relationships are fundamental to ethical thinking (Panza, Potthast, 2014:1).

The significance of discussing these ethical theories in this research is to bring to light how these theories individually or in combination of one or two inform thought and action. John Rawls' ethical theory is a variant of a contract theory given his thought experiment, the Original position, and his propositions are informed by virtue ethics, ethics of care, universalism etc. His entire *Magnus Opus* is dedicated to formulating an alternative ethical theory that would replace utilitarianism which is a prevalent social, economic and political theory responsible for shaping the existing social structure.

John Rawls' contribution to ethical thought is informed by the idea that just as truth is a virtue of systems of thought, that is, scientific theories, so are the concepts of justice, efficiency and humanity, virtues of social institutions (Rawls, 1971a: 293).

2.3 The Exposition of John Rawls' Ethical Theory

John Rawls' Theory of Justice is a superstructure on his view of man and society based on Immanuel Kant's conception of man as an autonomous rational being who has a conception of his life goals and the rational capacity to achieve such goals. It posits that individuals are not to be manipulated or used under any guise whatsoever as means to any end but should be seen and related with as ends-in themselves (Kant, 2001: 186). Rawls expounded it as 'a being having inviolable right that cannot be compromised for anything even the greater good of the society' (Rawls, 1971b: 3).

Rawls claims that "a person is acting autonomously when the principles of his actions are chosen by him as the most adequate possible expression of his nature as a free and rational being" (Rawls, 1971b: 252) That is, it is only natural in situations that individuals are convinced that they are free and are equal members of a group to choose principles that would enhance their freedom and equality.

Rawls then defines society where these individuals inhabit as

...more or less self-sufficient associations of persons who in their relation to one another recognize certain rules of conduct as binding and who for the most part act in accordance with them... It is a cooperative venture for mutual advantage. This society is characterized by 'identity of interest' that is, the benefits of such association and 'conflict of interest', that is, the individuals are concerned over how the greater benefits produced by their collaboration are being distributed, for in order to pursue their ends, they each prefer a larger share to a lesser share. There is therefore need for a set of principles that will choose among the various social arrangements how to determine the division of

advantages and to underwrite an agreement on the proper distributive shares, hence, the principles of social justice. (Rawls, 1971b: 4)

Rawls emphasizes that “men’s inclination to self interest necessitates vigilance against one another, their *public sense of justice* makes their secure association together *possible*; because among people with disparate aims and purposes, a *shared conception of justice* establishes the *bonds of civic friendship*; the general desire for justice limits the pursuit of other ends. Hence, a public conception of justice constitutes the fundamental charter of a well-ordered human association”. (Rawls, 1971b: 5)(Emphasis is mine)

What to Rawls then constitutes a well-ordered society? He admits that it is a very rare ideal situation which he defines as a society that is designed to advance the good of its members and is effectively regulated by a public conception of justice. That is, a society where everyone accepts and knows that the others accept the same principles of justice and that the basic social institutions generally satisfy and are generally known to satisfy these principles.

He admits that there is dispute over what is just and unjust and that even the accepted consensus on the conception of justice as: ‘when no arbitrary distinctions are made between persons in the assigning of basic rights and duties and when the rules determine a proper balance between competing claims to the advantages of social life’, is riddled with the latitude for diverse and selfish interpretations. (Rawls, 1971b: 5)

He then proposes an analysis of the subject of justice which he identifies as ‘the basic structure of society’ that is, the way in which the major institutions distribute fundamental rights and duties; and determine the division of advantages accruing or resulting from social cooperation. He argues that the major institutions are the social institutions which are: political institutions (that stipulates freedom of thought and liberty of conscience); and principal economic and social arrangement (which controls competitive market, private property, monogamous family).

Social institutions define men’s rights and duties and influence their life prospect that is, what they can expect to be and how well they can hope to do in life. The social position a man is born into as well as the political system, the economic and social circumstances determine a man’s life expectations. This Rawls argues results in deep inequality in that, it rules out appeal to the notion of merit and desert. Rawls dissatisfaction with this arrangement fueled his search for an alternative, one that will be based on principles of justice. Principles of social justice he claims would apply to (abolish) the deep inequalities entrenched in the basic structure of society by regulating the choice of political constitutions and the main elements of the economic and social systems. This is because the justice of a social scheme depends essentially on how fundamental rights and duties are assigned and on the economic opportunities and social conditions in the various sectors of society.

His theory of justice is a project borne out of his dissatisfaction with the prevalent political, social and economic status quo. He claims that his aim was to create a superior elaborate theory that would unseat the prevalent and predominant forms or variants of the theory of utilitarianism, which has been unsuccessfully opposed by previous philosophers. According to him, the reason for the consistent previous failures was that utilitarianism

...has been espoused by a long line of brilliant writers who have built up a body of thought truly impressive in its scope and refinement. We sometimes forget that the great utilitarians, Hume and Adam Smith, Bentham and Mill, were social theorists and economists of the first rank and the moral doctrine they worked out was framed to meet the needs of their wider interests and to fit into a comprehensive scheme'. (Rawls, 1971b: vii)

And the various 'criticism marshaled against it has been done on a much narrower front'. The actuality of Rawls argument was corroborated by Joel Feinberg in his article 'Duty and obligation in the Non- Ideal World'. According to him,

...until now, the opponents of utilitarianism have been unable to provide an equally systematic alternative of their own and have contented themselves with a series of ad hoc amendments and restrictions to utilitarianism designed to bring it into closer harmony with our spontaneous moral sentiments at whatever cost in the theoretical tidiness. They are likely to concede that one of the prime duties of social policy makers is to promote social utility, but then insist that one may not properly pursue that commendable goal by grinding the faces of the poor, framing and punishing the innocent, falsifying history and so on. (Feinberg, 1973: 263)

Exemplars of such narrow span critiques are such as are proposed by scholars like W.D Ross. He acknowledges utilitarian duties of beneficence but also supplements

them with relatively non-utilitarian duties of veracity, fidelity. He also argues that there is no way of telling in advance which duty must trump the others when circumstances seem to bring them into conflict.(Ross W.D,1973) In the same vein, in the sphere of social policy, theorists like Brian Barry in his “Political Argument” and Nicholas Rascher in his “Distributive Justice” both endorse utilitarian ‘aggregative principles’ but insist that they be supplemented or limited by equally valid egalitarian ‘distributive principles’ and when circumstances bring the principles of utility and equality into opposition, there is no higher order criterion to settle the conflict or to provide in advance one uniquely correct set of weightings to the conflicting principles (Barry, 1965:45).

Rawls also cites the failure of proponents of intuitionism which he defines as pluralistic theories that do not provide rigid “priority rules” among principles, requiring us to balance conflicting considerations against one another on the particular occasions of their conflict and to simply strike a balance by intuition, that is, by what seems to us most nearly right; in replacing the dominant principles of utilitarianism. (Rawls, 1971b: 34)

Feinberg elucidates Rawls’ objection to intuitionism thus: it does not even try to provide us with rigorously rational method of settling hard problems in ethics, in cases of close conflict, there are no demonstrably correct results and the ‘means to rational

discussion have come to an end'. Its modesty is its undermining trait. (Feinberg, 1973: 264)

Rawls concedes that perhaps, no theory can do better, but challenges that theorists should not on account of that desist from trying. He therefore proceeds to take on the onus of this challenge. This is the fulcrum of his theory of justice:

an attempt to generalize and carry to a higher order of abstraction the traditional theory of the social contract as represented by Locke, Rousseau and Kant, such that it will no longer be opened to the past fatal objections to it, and become an alternative systematic account of justice that is superior to the dominant utilitarianism tradition. (Rawls, 1971b: 35)

2.4 John Rawls' Method

Rawls claims no originality for the ideas espoused in his theory; he states that they are classical and popular ideas and that his intention 'is to organize them into a general framework by using certain simplifying devices so that their full force can be appreciated'. He labels his theory 'the third horse in the race' of 'contractarianism' or the contract theory.

He differentiates his type of original contract as not 'one to be used to enter a particular society or to set up a particular form of government'. The guiding idea is that the principle of justice for the basic structure of society is the object of the original agreement. 'They are the principles that free and rational persons concerned

to further their own interests would accept in an initial position of equality as defining the fundamental terms of their association. They are to regulate all further agreement, specify the kinds of social cooperation that can be established'. This is what constitutes 'Justice as Fairness'. (Rawls, 1971b: 11)

He urges his readers to imagine and visualize that before engaging in social cooperation; the people involved "choose together in one joint action, the principles which are to assign basic rights and duties; and determine the division of social benefits" (Rawls, 1971b:11). It is expected that the choice which rational men would make in this hypothetical situation of equal liberty, assuming the choice problem has solution, determines the principles of justice.

Rawls argues that the 'original position' of equality corresponds to the state of nature in the traditional theory of the social contract. He posits his justification for the adoption of the contract theory alongside his aim and intentions (Rawls, 1971b: 16-18)

He outlines the basic features of the original position thus:

- No one knows his place in society, nor his class position, social status.
- No one knows his fortune in the distribution of natural assets and abilities, his intelligence, strength, etc.
- No one knows his or her own conceptions of the good or their special psychological propensities

- Choosing the principles of justice behind a veil of ignorance ensures that no one is advantaged or disadvantaged in the choice of principles by the outcome of natural chance or the contingency of social circumstance
- All are similarly situated and no one is able to design principles to favour his particular condition.

The principles of justice that would evolve from this position would be as a result of a “fair agreement or bargain”. Because, given the circumstances of the original position, the symmetry of everyone’s relation to each other, then, this initial situation is fair between individuals both as moral persons and as rational beings with their own ends and are capable of a sense of justice; and this original position is the appropriate initial status quo and thus the fundamental agreements reached in it are fair.

He argues that ‘the name justice as fairness is appropriate given the above explanation; it conveys the idea that the principles of justice are agreed to in an initial situation that is fair and not that the concepts of justice and fairness are the same. (Rawls, 1971b: 11)

He further delineates the traits of people in the ‘original position’ as different from those of people in utilitarian society thus:

- They view themselves as equals, entitled to press their claims upon one another
- Each desires to protect his interests and his capacity to advance his conception of the good

- A condition conceived of as a social cooperation among equals for mutual advantage
- Implicit in it as a forbear of a well-ordered society, is the idea of reciprocity and thus incompatible with principles of utility; principles which may require less life prospects for some for the sake of a greater sum of advantages enjoyed by others, that proffers reasons for acquiescing in an enduring loss for himself in order to bring about a greater net balance of satisfaction, and is based on maximizing the algebraic sum of advantages irrespective of its permanent effects on his basic rights and interests.
- Therefore, people in this ‘original position’ would choose two different principles which are: (1) Equality in the assignment of basic rights and duties.
 - (2) Social and economic inequalities are just if they result in compensating benefits for everyone especially the least advantaged in the society. (Rawls, 1971b: 14)

According to Rawls, there is no injustice in the greater benefits earned by a few provided that the situation of persons not so fortunate is hereby improved.

Rawls describes the characteristics of Justice as Fairness as follows:

- The parties in the initial situation are rational and mutually disinterested
- They are not egoists that is, individuals with only certain kinds of interests such as wealth, prestige and dominion

- Rather, they are not taking interest in one another's interests
- They are to presume that even their aims may be as opposed as the spiritual aims of those in different religions may be
- Concept of rationality is viewed from the narrow sense, as in standard economic theory as, 'taking the most effective means to given ends' devoid of any controversial ethical elements
- The initial situation must be characterized by stipulations that are widely accepted. (Rawls, 1971b: 14)

He claims that in formulating Justice as Fairness, he was guided by intuitive idea which shall be analyzed below.

2.5 Two Guiding Ideas and Principles of Justice as Fairness

Social cooperation in some form is necessary for people in a community to be able to lead decent lives. These people are concerned about how the benefits and burdens of their mutual cooperation will be divided amongst them. Rawls' principles of justice as fairness embody the central liberal ideas that cooperation should be fair to all stakeholders regarded as free and equal. The distinctive interpretation that Rawls gives to these concepts can be seen in broad terms as a combination of a negative and a positive propositions.

The negative proposition is that individuals in a society do not deserve to be born into a rich or a poor family, to be born naturally more gifted than others, to be born male or female and to be born a member of a particular racial group. According to Rawls, these features of persons are in this sense morally arbitrary; individuals are not at the deepest level entitled to more or less of the benefits of social cooperation because of them. For example, the fact that a person was born rich or poor, white, black or coloured; and male or female in itself creates no reasons for this individual to be either favoured or disfavoured by social institutions. However, Rawls, negative proposition does not stipulate how social goods should be distributed.

Rawls' positive proposition is essentially a distributive and equality-based reciprocity. It states that all social goods are to be distributed equally, unless an unequal distribution will be to everyone's advantage. The guiding idea is that since citizens are fundamentally equal, reasoning about justice should begin from a supposition that goods that are produced through mutual cooperation should be equally divided. Justice then requires that any inequalities must benefit all stakeholders, and particularly must benefit those who will have the least. Equality sets the starting point; from there any inequalities must improve everyone's situation, and especially the situation of the worst-off. These strong requirements of equality and reciprocal advantage are hallmarks of Rawls' theory of justice (Wenar, 2008).

The Two Principles of Justice as Fairness

His revised formulation goes thus: Social and economic inequalities are to be arranged so that:

- i. (a) They are to be of the greatest benefit to the least-advantaged members of society (*the difference principle*).
- ii. (b) Offices and positions must be open to everyone under conditions of *fair equality of opportunity* (Rawls, 1971b: 303)

First Principle: Each person has the same inalienable claim to a fully adequate plan of equal basic liberties, which is compatible with the same plan of 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*). (Rawls, 1958: 42-43)

The first principle of equal basic liberties is to be used for designing the political constitution, while the second principle applies primarily to social and economic institutions. Fulfillment of the first principle takes priority over fulfillment of the

second principle, and within the second principle fair equality of opportunity takes priority over the difference principle.

The first principle affirms for all citizens' basic rights and liberties, that is, liberty of conscience and freedom of association, freedom of speech and liberty of the person, the rights to vote, to hold public office, to be treated in accordance with the rule of law, and so on. The principle ascribes these rights and liberties to all citizens equally. Unequal rights would not benefit those who would get a lesser share of rights, so justice requires equal rights for all in all normal circumstances.

Rawls' first principle accords with widespread convictions about the importance of equal basic rights and liberties. Two further features make this first principle distinctive. First, its priority: the basic rights and liberties are not to be traded off against other social goods like economic efficiency. The second distinctive feature of Rawls' first principle is that it requires fair value of the political liberties. The political liberties are a subset of the basic liberties, for they are concerned with the rights to hold public office and the right to participate in the democratic process and governance of one's country irrespective of sex, race, religion and social standing. For these liberties, Rawls requires that citizens be not only formally but also substantively equal. (Wenar, 2008)

Rawls' 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. “In all parts of society there are to be roughly the same prospects of culture and achievement for those similarly motivated and endowed.” (Rawls, 1958: 44) So for example, if we assume that natural endowments and willingness to use them are evenly distributed across persons from different social classes, and that social standing is a morally arbitrary fact about citizens, then, justice would not allow social standing to turn into unequal real opportunities for education or meaningful work.

The second part of the second principle is the difference principle. The difference principle requires that social institutions be arranged so that inequalities of wealth and income work to the advantage of those who will be worst off. Beginning from an imagined starting point of equality, a greater total product can be generated by allowing inequalities in wages and salaries. The difference principle requires that inequalities which increase the total product should be to everyone's advantage, and specifically to the greatest advantage of the least advantaged (Wenar, 2008).

The difference principle ensures that the least-advantaged group does best. Inequalities are to everyone's advantage relative to an equal division, and a more equal division. But the difference principle does not allow the rich to get richer at the expense of the poor. The difference principle embodies equality-based reciprocity:

from an egalitarian baseline it requires inequalities that are good for all, and particularly for the worst-off.

The difference principle gives expression to the idea that natural endowments are undeserved. A citizen does not merit more of the social product simply because she was lucky enough to be born with gifts that are in great demand. Yet this does not mean that everyone must get the same shares. The fact that citizens have different talents and abilities can be used to make everyone better off. In a society governed by the difference principle citizens regard the distribution of natural endowments as an asset that benefits all (Wenar, 2008). Those better endowed are welcome to use their gifts to make themselves better off, so long as their doing so also contributes to the good of those less well endowed. “In justice as fairness,” Rawls says, “men agree to share one another's fate.” (Rawls, 1971b: 102)

2.6 Critique of Rawls’ Ethical Theory

John Rawls’ theory of justice has been variously criticized and several attempts have been made to reconstruct or rework parts of the theory or the theory as a whole. Some of such critiques which are deemed relevant to this study are discussed below and labeled in terms of what their criticism was about. They are as follows:

Contention over Rawls' labeling of his theory as a contract theory

While Joel Feinberg out-rightly condemns the labeling of Rawls' theory as a contract theory, Bates merely argues that while the standard contract theories posit strong and convincing reasons or motivations for partaking and being committed to the terms of the social contract; Rawls reliance on nothing more than limited altruism or self-interest is a very weak motivational assumption that would not both in hypothetical or actual situations convince anyone.

Feinberg Joel contends that labeling his brand of ethical theory that is, his theory of justice as a contract theory in the order of Locke, Rousseau and Kant is puzzling. This is because the part of the theory which is a direct rival to utilitarianism and intuitionism does not employ the idea of a contract. Depending on how the rival theories are interpreted, they are either statements of the ultimate principle(s) of right conduct generally or of social justice in particular. The traditional social-contract doctrine was a different answer as we understand it to a different question from that answered by Rawls' contractarianism (Feinberg, 1973: 265).

Feinberg argues further that, the contract theory in its Hobbesian and Lockean forms is not so much a general criterion for the truth of the principles of social justice as a statement of grounds and limits of political obligation and the concept of a contract (tacitly actual or hypothetical, among subjects or between subjects and a sovereign) was essential to it. The contract theory as Rawls develops it then is a poorly named

but genuine alternative to utilitarianism and intuitionist systems of ultimate justification as the case may be. Like utilitarianism, contractarianism can be applied primarily to individual acts and policies or primarily to more general rules and institutions. Rawls did so much to clarify the distinction between acts and rules and to emphasize its importance in his famous early discussion of utilitarianism, apparently setting the stage for his own rule-oriented brand of ‘contractarianism’ (Feinberg, 1973: 266). However much this study may agree with Feinberg that traditional contract theory answers a different question from the one Rawls’ theory speaks to, it is nonetheless a contract theory in that it requires a rational deliberation and consensual agreement between rational people in solving a problem. Which though not a statement of grounds and limits of political obligation but nonetheless a foundation of social cooperation that almost achieved its objective of being an alternative to utilitarianism.

Stanley Bates in reviewing Rawls asserts that no other work of recent analytical philosophical history has had immediate and widespread impact like the one John Rawls’ *A Theory of Justice* made, not only among philosophers and members of other academic disciplines, but also among the general public which for a substantial period of time has been disconnected from the contemporary philosophical tradition in those countries dominated by analytical philosophy. Rawls he argues has actually developed in detail a theory of justice and one only realizes how staggering this is if we consider

in detail some major works in analytical moral philosophy. And analytical moral philosophy is characterized by the fact that they are chiefly concerned with what has come to be called 'meta-ethics'. This is defined as a subject concerned with 'higher order' questions of the meaning, justification and truth value of moral propositions as opposed to 'first-order' questions of value or normative ethics. (Bates, 1974: 1)

Contemporary works in ethics is both that which rests partly on skepticism engendered by positivism which focuses on the possibility of saying anything philosophically worthwhile on questions of value; and a return to the great 'classical non - skeptical tradition. (Hampshire, 1972: 34-39)

Bates argues that most readers of Rawls find it difficult extracting his views and establishing undoubtedly the fulcrum of his theory because there is so much detailed material presented in each of the different sections that one may lose sight of the connection between the sections. While Rawls claims that his theory is a social contract, it will be misleading for many readers to associate him with this tradition without a proper understanding of why Kant belongs to the tradition too. This is because they are likely to read into Rawls views which he does not hold. The most significant thing about his theory is how he transformed this tradition or at least how he has re-presented Kant's transformation of it. If we read Rousseau through Kant's eyes, he may also have held views Rawls does about the function of the social contract. (Bates, 1974: 7-8)

Traditional social contract theory posits arguments to justify the transition from a 'state of nature' to a civil society as is interpreted in Hobbes, Locke, and Rousseau; and to justify particular political institutions. For instance, Locke justifies Democracy, Hobbes Monarchy and so on. And to justify standards in terms of which political institutions could be judged as being the outcome of a voluntary agreement made by rational self interested individuals. Since the acknowledgement of these principles or the acceptance of these institutions restricted individuals' behavior in certain ways; they would only accept them if there are benefits accruing to them in the arrangement which will foster their diverse interests. This tradition emphasizes what might be called 'economic rationality'. Bates argues that Rawls assumed something like an extended model of 'economic rationality' in the original position. However, he does not assume as someone like Hobbes does, that we need to explain actual moral actions (for instance, adherence to the contract) solely in terms of economic rationality. (Bates, 1974: 8)

Bates argues further that, contrary to historical claims and psychological assumptions about the evolution of civil society and the individuals involved made by other contract theorists, Rawls specifically rejects any historical interpretation of his version of the contract theory. He describes a situation in which principles of justice are to be chosen, principles in terms of which judgments concerning the justice of competing claims can be made. Rawls wants to rely on nothing more than limited altruism (or

self-interest extended over perhaps, a larger ‘self’ equivalent to a family) and this is the weakest motivational assumption he can make. (Bates, 1974: 9)

For Rawls, we have a situation familiar in social theory , a simplified situation in which rational individuals with certain ends and related to each other in certain ways as to choose among various courses of action in view of their knowledge of the circumstances. What these individuals will do is derived strictly by the deductive reasoning from these assumptions about their beliefs and interests, their situations and the options open to them. Their conduct is in the phrase of Pareto, the resultant of tastes and obstacles. (Rawls, 1958: 119)

Contention over the philosophical basis of Rawls’ Difference Principle

Robert Nozick is mainly concerned with the fundamental philosophical grounds supporting the Difference Principle. Rawls in defending this principle argued that natural assets are undeserved even if the possessors of such assets have put some effort in developing them; “that even the preparedness to make an effort to develop one’s abilities will be influenced by many factors – social status, parental support, other natural abilities – possession of which, too, is arbitrary from a moral point of view”. (Rawls, 1971b: 312)

Nozick criticizes this argument with three replies as follows:

1. The view of what one has or fails to have responsibility for presents us with a diminished conception of a person, of a person who is not even responsible for trying, or omitting to try, to perform actions.

This line of argument can succeed in blocking the introduction of a person's autonomous choices and actions (and their results) only by attributing everything noteworthy about the person to certain sorts of 'external' factors. So denigrating a person's autonomy and prime responsibility for his actions is a risky line to take for a theory that otherwise wishes to buttress the dignity and self-respect of autonomous beings. (Nozick, 1974: 214)

2. Nozick asks Rawls whether it really is so arbitrary from a moral point of view that people have the natural assets they do. Since it is possible to be entitled to something without deserving it, possessions is not after all then, morally arbitrary, and we have no warrant to try to wipe out 'the contingencies of social fortune'.
3. Nozick also contends that Rawls Difference Principle violates the separateness of persons. It requires that we prevent the better endowed gaining extra material benefits for themselves unless this would also improve the position of the worst off. But this seems to be like using the better endowed, sacrificing one person's welfare for the sake of another, hence Rawls fails by his own standards (Nozick, 1974: 214). Nozick's argument though relevant, it is a bit

taking his individual rights' convictions to the extreme. A proper understanding of Rawls will make clear that his theory is built on Kant's categorical imperative that extols individual rights, dignity of persons and respect for them as persons who have worth. Also, while his critique is focused on Rawls' Difference Principle, this study is concerned with the fundamental flaw in the original position.

Attempts at reconstructing Rawls' ethical theory

Scholars like Robert Paul Wolff and Strasnick Steven makes laudable attempts at reconstructing Rawls' theory either in part or in whole. While Thomas Winfried Menko Pogge defends Rawls theory against his critics and attempted to extend it to areas he felt Rawls' ought to have covered. This research is an attempt to fill the lacuna left by their reconstruction efforts.

Robert Paul Wolff a former student of John Rawls is adjudged the greatest critic of Rawls. While other critics focus on particular aspects of his theories, he criticizes extensively the whole theory as espoused in *A Theory of Justice*. Wolff asserts in his book *Understanding Rawls: A Reconstruction and Critique of A Theory of Justice* that "the key to understanding the theory of John Rawls is to grasp the central idea with which Rawls began his work twenty years ago and then follow its evolution into *A Theory of Justice*".

According to him, Rawls begins in 'Justice as Fairness' with a simple, coherent, comprehensible problem – the Kantian problem of deriving substantive moral conclusions from purely formal premises of rationality - and a brilliant idea for its solution.(Wolff, 1977: 496)

Steven Strasnick in his review of Wolff's book elaborates this idea further thus:

According to a tradition that originates with Kant, moral principles will be valid as objective law only if they can be derived from formal a priori premises of reason. We cannot discover these principles in our natural experiences, for then they would not apply equally to all rational beings. They must somehow be found in the form of reason itself. But deducing, as Wolff puts it, 'substantive conclusions from purely formal premises' seems an impossible task and we seem forced either...to retreat to the subjectivity of prudence, as utilitarianism, for all its efforts to the contrary, ultimately does, or else we would in desperation, simply have to posit substantive moral principles without a suggestion of rational argument as does intuitionism. (Strasnick, 1979: 497)

Wolff asserts that this was the impasse which confronted philosophers in the 1950s and which Rawls' theory held hope of solving. Rawls idea was that the principles of justice could be conceived of as those which would be chosen by suitably situated rational agents by a model of bargaining game. Although Rawls' premises cannot be regarded as purely formal, since the procedural rules of the bargaining game are added to the formal principles of practical reasoning, they cannot be regarded as manifestly material either. If Rawls can prove that his principles are the solution to the bargaining game, he would have found a way of overcoming 'the sterility of Kant's formal reasoning'.

Wolff argues further that as this theory evolved, certain elements were added to it which fundamentally transformed the original game. The first of these is the imposition of the veil of ignorance which prevents players in the bargaining game from knowing about the nature of their society or their own personal qualities. And the second is the replacement of Rawls' second principle by the "Difference Principle" which requires society to maximize the prospects of the worse off members. But these changes did not bring coherence and consistency to Rawls earlier ideas but instead acted to undermine the entire edifice of Rawls' theory and destroyed what was the central idea of the first form of the model. (Wolff, 1977: 496)

Wolff argues further that as the theory in *Justice As Fairness* evolved into *A Theory Of Justice*, the theory undergoes two key changes which occur in *Distributive Justice*. Since individuals now would have no information upon which to make a rational choice, Rawls must also add a theory about primary goods which are portrayed as generalized means to whatever ends a rational agent might have. This made Rawls' principle applicable to the basic institutional structure of society (Wolff, 1977:496). This research however argues that if it is not modified as it is advocated, it would not be applicable to social relation which is a fundamental prerequisite to it being applicable to the basic institutional structure of society. Though Wolff's criticism is encompassing and thorough he does not identify the undermining effect of the

introduction of the ‘veil of ignorance’ on the whole theory. This gap is what this research attempts to fill.

Stasnick Steven criticizes Wolff’s reconstruction of Rawls theory as ‘inverting the actual sequence of the major changes in Rawls Theory’. He argues that the fundamental problem of justice concerns ‘the differences in life prospects which come about in this way’. Principles of justice are required for determining which arrangements of the basic structure and of the distribution of primary social goods produced by it are fair or in other words which would not give members of any particular social class created by it legitimate grounds for complaint. The problem of justice is thus still one of fairness as it was in ‘Justice as Fairness’, but the fairness at stake is now the basic structure of society in which everyone must begin, as opposed to the structure of the particular on-going practices within a society’s basic structure. This change in orientation is significant, for it will require Rawls to transform radically the nature of the bargaining game as he does in *Distributive Justice*. (Stasnick, 1979: 504). While Stasnick offers no blue print for the transformation of the bargaining game, this research posits its modification.

Thomas Winfried Menko Pogge received his Ph.D. from Harvard University with a dissertation supervised by John Rawls. In *Realizing Rawls*, Pogge defends, criticizes and extends John Rawls’s *A Theory of Justice*. Pogge identifies the core of Rawls ideas as follows: Moral deliberation must begin from reflection upon the justice of our

basic social institutions; and that the justice of an institutional scheme is to be assessed by how well its least advantaged participants fare.

He argues that Rawls has been importantly misunderstood by his most influential critics, including the libertarian Robert Nozick and the communitarian Michael Sandel. And Rawls' reluctance to disagree sharply with his critics has helped these (mis)understandings to become widespread, and has also induced Rawls in his more recent work to dilute the moral statement of his central Rawlsian ideas.

Based on what he identifies as Rawls core moral ideas, Pogge develops his own specification of Rawls' principles of justice, discussing the relative importance of different fundamental rights and liberties, the ideal constitution of the political process, and the just organization of educational, health-care, and economic institutions. In the last part of the book, Pogge argues for extending the Rawlsian criterion of justice to the international arena, and identifies those features of the present global order that this criterion would single out as principal targets for institutional reform (Pogge, 1989). He claims that his focus is on practical political concerns in Rawls theory and that matters such as the original position, however important they may be to Rawls, will be at the peripheral of his discourse. (Pogge, 1989: 2) The original position is the main focus of this research study and so fills the lacuna left by Pogge's reconstruction.

Contention over the possibility of Rawls' theory actually evolving principles of justice as fairness.

Some scholars argue that given some conditions, possibilities and some insight into human nature that the outcome of the deliberation may be a stand-off situation, no consensual agreement on proposed principles of justice or that the outcome may never be the two rules that Rawls proposed, that is, there may be variations that will not be exactly as Rawls'. The scholars' arguments are as follows:

Choptiany Leonard in his "A Critique of John Rawls' Principles of Justice", criticizes the principles of Justice which was supposed to redefine the subject of justice in terms of the social structure of the social system. He argues that, Rawls in contrast to the utilitarians expounded a contractualist theory of justice based on the notion of fairness and reciprocity and this is why Rawls have taken it as an improvement over utilitarian accounts of justice as maximum welfare. Where the utilitarians treat society as a collective person and aim at maximizing its satisfaction without regard for the gains and losses of actual persons, Rawls' conception treats society 'distributively' taking into account the autonomy and right to satisfaction of each of its members.(Choptiany, 1973: 146) Choptiany comments on the rationale of Rawls theory and in aiming to prove that the derivation of his principles of justice did not succeed, argues that, although Rawls did not posit a rigorous derivation, but he could prove the possibility

of such a derivation and use it to condemn the theory. He thus develops principles of justice by Rawls as follows:

1. Each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others.
2. (A) Social and economic inequalities are arbitrary unless they are reasonably expected to be to the advantage of the representative man in each income class
(B) Inequalities are to attach to positions and offices equally open to all.

These principles argues Rawls ‘are those that would be chosen at least in preference to other traditional alternatives, by rational persons in an original position of equality as their common conception of justice’. Contract doctrines tread a narrow path between empirical fact and theological construction, while used ostensibly to illustrate the logic of a concept, the device lends unearned credit to the concept or theory if the choice of illustration is attractive in itself. Who could entirely despise Hobbes’ notion of sovereignty when told that it saves thousands of unfortunates from a life which is ‘solitary, poor, nasty, brutish and short?’

Choptiany argues that Rawls theory is attractive for similar reasons. Laissez faire capitalist writers like Friedrich Hayek has told us for years that the market is a fair political mechanism because it is agreeable to and permits the functioning of free self-interested agents. But it has never been made clear how being agreeable to egoists makes an institution just. (Choptiany, 1969: 52) Rawls’ theory not only fails to

provide this explanation, it does claim to have derived the only principles of justice which rational egoists would accept. The mere showing that rational egoists could accept principles of justice has been sufficient to earn Rawls' theory considerable praise and attention. Seeing in the capitalist political tradition, Rawls' rationale for his theory is closer to Hayek than to Kant.

For Rawls to claim that: "the aim of the contract doctrine is precisely to account for the strictness of justice by supposing that its principles arise from agreement among free and independent persons in an original position of equality and hence reflect the integrity and equal sovereignty of the rational persons who are contractees" (Rawls, 1969: 52); argues Choptiany, portrays Rawls as been 'concerned to attack utilitarian conceptions of justice for their collectivist implications. But it is a small step from the utilitarian precept that justice is a matter of the common good to the socialist theories which justify the subordination of individual gain to the welfare of the group.

Choptiany argues further that Rawls' principles of justice would not be just even if his derivations were to succeed because; they are neither necessary nor sufficient as principles of justice. Also the difference principle is much too strong; it specifies that inequalities are arbitrary unless they will work out to the advantage of the representative man. But this 'pareto-inclusive rule' prevents any redistribution which lowers wealth of the rich from being considered just. The difference principle is not sufficient either, since it gives no specification of the size of the inequality allowed in

comparison with the amount of the advantage provided, any inequality, no matter how great, would be justified by any advantage, no matter how slight, to the 'badly off'. Rawls does not call this perfectly just, but he considers it 'just all the same. (Choptiany, 1973: 147)

Rawls argues Choptiany, originally defined the contract situation in the following terms:

- A society that exists with established practices
- The members are mutually self-interested
- The members are rational, they know their own interests and can foresee consequences of decisions
- They are neutral to differences between their condition and that of others
- They have roughly similar needs and interests
- They are sufficiently equal in power and ability to ensure that none can dominate the others

These members are imagined to come together to decide upon a manner of judging the institutions and practices in which they competitively engage. It is supposed by Rawls that these members are uncertain either of the nature of the future practices or the role they will come to play in them. At any rate, each will not propose principles of particular advantage to himself since he may come to play a role in which the principle works to his detriment. And in such a situation it is obvious that the

principles of justice would be adopted. But this outcome is not the only possibility argues Choptiany, there is a possibility of a standoff that could make agreement impossible or may put decision making into the hands of chance such as, like flipping of the coin etc. Then, it cannot be called a unanimous choice of rational egoists. (Choptiany, 1973: 148)

Robert Paul Wolff corroborates Choptiany's argument in his '*A Refutation of Rawls' Theorem*' as he also claims that Rawls derivation could not succeed. He argues that Rawls' important second principle will not necessarily be adopted by the contractees. The principle that says that positions and offices are open to all could mean 'open to competition' or 'open to random assignment' or a number of possibilities'. Rawls takes this principle to mean 'open to fair competition' and assumes that the contractees will see it as in their individual interests to adopt it in unison.

Wolff argues further that if the individuals are rational, each would know that his talents were relative to the others; the 'less able' would reason that they stood to lose in competition and would opt for the fair competition principle, and a standoff would result. Since a standoff is worse for each one than the acceptance of either principle, the decision would be left to chance. (Wolff, 1966: 179-190)

Kenneth J. Arrow in his article titled "Some Ordinalist- Utilitarian Notes On Rawls Theory of Justice" reviews Rawls theory from an utilitarian defender stance. He begins his defence of utilitarian principles by profusely praising Rawls theory thus:

Rawls 'major work has been widely and correctly acclaimed as the most searching investigation of the notion of justice in modern times. It combines genuine and fruitful originality of viewpoint with an extraordinary systematic evaluation of foundations, its implications for action and connections with other aspects of moral choice. The specific postulates for justice that Rawls enunciates are quite novel and yet once started, they clearly have a strong claim on our attention as at least plausible candidates for the foundations of a theory of justice. The arguments for accepting these postulates are part of the contractarian tradition. (Arrow, 1973: 245)

While Arrows' observation on Rawls' work depicts Rawls' declaration that he claims no originality for his ideas, he argues that his theory have been developed in many new and interesting ways; the implications of these postulates for specific aspects of the institutions of liberty, particularly civil liberty and for the operations of the economic order are spelled out in considerable and thoughtful detail.

He asserts that he was impressed by the sophistication and knowledge displayed by Rawls in showing his understanding of the nature of an economy and his analysis of the relation between justice of social institutions and the notion of morally right behavior on the part of individuals at considerable and intelligent length.

Arrow thereafter raises some cogent questions and objection stating that 'no theory of justice can be so compelling as to forestall some objections, indeed, that very fact is disturbing to the quest for the concept of justice, these are a tribute to the breadth and fruitfulness of Rawls' work. (Arrow, 1973: 246-247)

Arrow argues that his stance is derived from the tradition of thought of welfare economics informed by a version of utilitarianism. In the prescription of economic policy, questions of distributive justice inevitably arise (not all such questions arise, only some; in particular, justice in the allocation of freedoms rather than goods is not part of the formal analysis of welfare economics, though some economists have strong informal and unanalyzed commitments to some aspects of freedom). That is, while economists talk about distributive justice in connection to the distribution of goods and services, philosophers want to use the same principles to distribute in a just way intangible goods such as freedom, liberty, self-respect, etc., which in the economists point of view is not possible. (Arrow, 1973: 247)

Arrow argues further that, the central part of Rawls theory is a statement of fundamental propositions about the nature of a just society which may be thought of as a system of axioms. On the one side, it is sought to justify these axioms as deriving from a contract made among rational potential members of society; on the other side, the implications of these axioms for the determination of social institutions are drawn. The axioms themselves can be thought of as divided into two parts which are general statement of the notion of justice; and a more detailed elaboration of more specific forms. And the general point of view is a strongly affirmed egalitarianism, to be departed from only when it is in the interest of all to do so.

Rawls states that ‘all social values - liberty and opportunity, income and wealth and the bases of self-respect – are to be distributed equally unless unequal distribution of any or all of these values is to everyone’s disadvantage. (Rawls, 1971b: 62) Arrow asserts that he fully shares this value judgment and that it is implied by almost all attempts as full formalization of welfare economics. But a contradictory proposition that an individual is entitled to what he creates, is also widely and unreflectively held. It may be worth stressing therefore, that, the assumption of what may be termed ‘asset egalitarianism’ (that all the assets of society, including personal skills, are available as a common pool for whatever distribution justice calls for), is so much taken for granted that it is hardly argued for. All the alternatives of this principle of justice that Rawls considers imply asset egalitarianism. But Rawls’ theory is a much more specific statement of the concept of justice. This consists of two parts specifically:

(1) Among the goods distributed by social order, liberty has a priority over others, no amount of material goods is considered to compensate for a loss of liberty.

(2) Among goods of a given priority class, inequalities should be permitted only if they increase the lot of the least well off. Rawls argues for these two principles as being those which would be agreed to by rational individuals in a hypothetical original position, where they have full general knowledge of the world, but do not know which individual they will be. The idea of this ‘veil of ignorance’ is that principles of justice must be ‘universalizable’; they must be such as to command

assent by anyone who does not take account of his individual circumstances. If it is assumed that rational individuals under these circumstances have some degree of aversion to uncertainty, then they will find it desirable to enter into an insurance agreement, that the more successful will share with the less, though not so much as to make them both worse off. Thus, the ‘original position’ argument does not lead to a generalized view of justice. And Rawls argument that his more specific principle (priority of liberty and the difference principle) also follows from the original position argument, at least in the sense of being preferable to other principles advanced in the philosophical literature such as classical utilitarianism. (Arrow, 1973: 248-249)

Contention over the structure and nature of the Original Position experiment

The following scholars criticize the nature, structure and the implausibility of Rawls’ thought experiment with the Original position:

Raymond D. Gastil in his article “Beyond a Theory of Justice”, states that although most philosophers and intellectual laymen are ideologically receptive to the egalitarian tendency of Rawls’ theory of justice, many do not find either the ‘original position’ or what follows from it compelling. Rawls’ original position of selected ignorance appears to some to be too removed from real human condition to have meaning. To others, the wealth and liberty that Rawls specifies as primary preferences are seen as the arbitrary preferences of a twentieth century liberal (Gastil, 1975: 183).

This study is concerned with reconstructing the Original position to make it logically applicable to actual human social relations.

Michael Sandel in his *Liberalism and the Limits of Justice* (1982) criticizes John Rawls' conception of rational negotiators deliberating as the disconnected and disembodied individuals in the so-called 'original position' who have come together to find out the principles of justice. He argues that Rawls' conception is typical of the liberals' disposition that attempts the understanding of human beings independently of all actions, needs, thoughts, roles and pursuit that distinguish individuals in real society. He observed that:

After subtracting all these characteristics, nothing is left of the person whom we want to understand. A person can only be understood in the context of his 'embeddedness' in a particular time, place and culture. Only with this understanding, a political theory can generate laws, institutions and practices that would be genuinely good for us and conducive to a fully just society. (Sandel, 1982)

"Man is man because of other men; man cannot be defined in isolation from the community in which he lives" (Falaiye 1994:78). This study aligns with his view and it incorporates this idea in its modification.

Critique of the flaws in Rawls' ethical theory

The following scholars points out fundamental flaws in Rawls' theory of justice such as the combination of conceptions having diametrically opposed organizing

principles, borrowing from Enlightenment's sentimentalism without merging it appropriately with Kantian rationalism and so on.

Barry Clark and Herbert Gintis in their article "Rawlsian Justice and Economic Systems" acknowledge the merit in Rawls' theory but argue that it had fundamental errors. They argue that his theory had implicit polarity of thoughts and ideas resulting into fundamental dilemmas. Such dilemmas are:

(1) Marriage of Kantian and Hegelian ethics.

(2) A byproduct of this on one hand is the inability of individual moral choices to achieve social justice in modern liberal societies when individual liberties and authentic democracy becomes meaningless in the absence of individual moral responsibility. On the other hand, preservation of individual liberties, democracy and social equity in liberal societies requires state intervention on an increasing wider scale. While liberal society has not been able to either fully legitimize or propose definitive guidelines for the state activities.

(3) Presenting the social imitation theory of Bandura and the development psychology of Piaget and Kohlberg as compatible for the purpose of analyzing commitment to conceptions of justice despite their diametrically opposed organizing principles (Rawls J. 1971b: 255). Rawls claim to have developed a consistent and stable juxtaposition of the dilemmas by the means of his methodological construct, the

original position. This he did by deducing from the premises of classical liberalism – individual choices of “free and equal persons” – the conclusion that Hegelian notion that the interventionist state is the only basis for rational society. They argue that the Original position cannot accommodate and synthesize these polar opposites and that they constitute a fundamental error in his theory (Clark B., Gintis H. 1978: 321).

They also criticize him for making human reflective capacity motivationally dominant over all other human capacities and needs; and this research agrees with them. They argue that conflict in modern liberal democracies will be resolved only within the historical context of opposing class interest and not in hypothetical ‘ahistorical’ original position. That the historical movements of this interests entail the possibility of increasing liberty and equality only in their conscious and knowing state (Clark B., Gintis H. 1978:325). They also argue that while his conception of constitution is a raw material for a correct specification of just society, he has wrongly analyzed constitution in terms of political and civil rights only. A theory of justice they claim must be premised on the rejection of the dichotomy between the political and economic spheres (Clark B., Gintis H.1978:324). This corroborates this research’ stance and its task to integrate the inclusion of the economic sphere as depicted by corporate governance into the modified form of the theory, which Clark and Gintis did not do.

Michael Frazer in his “John Rawls: Between Two Enlightenments” describes Rawls as an heir of the Enlightenment with his two major strands of rationalism and sentimentalism. He argues that while Rawls shares the Enlightenment’s commitment to finding moral and political principles which can be reflectively endorsed by all individuals autonomously; he usually presents reflective autonomy in Kantian rationalist terms. That is, autonomy that is identified with the exercise of reason and construction of principles of justice acceptable to all on the basis of reason alone. He further argues that Enlightenment’s sentimentalists like David Hume, Adam Smith rejects such rationalism in favour of the search for the principles which can be endorsed by all on the basis of all the faculties of the human psyche, emotion and imagination.

Frazer argues that the influence of these sentimentalists on Rawls though clearer in his descriptive moral psychology; is also evident in his understanding of the sources of normativity. This is a debt obscured by his explicit “Kantianism” whose acknowledgement would have showcased his understanding and would have strengthened his theory. He further argues that a complementary engagement of both strands of the Enlightenment – Rationalism and Sentimentalism would have given Rawls a very robust, realistic theory of justice. This research corroborates this and even posit that it is in complementary integration that this theory can realistically aid

just and fair social relations as well as inform just, fair and humane social structures and institutions.

Frazer argues further that the Sentimentalist account of autonomous reflection is held in low esteem by most academic heirs of the Enlightenment. While Rawls implicitly endorses much of sentimentalist' description of moral psychology; he explicitly rejects the Sentimentalist's theory of normativity which might naturally accompany this descriptive psychology. Yet Rawls' approach to normative theories is far more compatible with the Sentimentalist than he is willing to admit (Frazer. 2007:758)

Thomas Baldwin in his "Rawls and Moral Psychology" (2008) claims that, his aim is to elucidate Rawls' conception(s) of moral psychology and to explore critically some of the complexities and tensions inherent in his uses of it. Rawls tackles the problem of showing how a just society is likely to be stable and he uses these conceptions to provide a basic framework for the activities of its members which they would recognize as congruent with their individual interests. Baldwin assessed how far the moral psychology Rawls relies on to address this problem has an essential social dimension (Baldwin. 2008:267).

Rawls claims that our psychology is inherently moral both in content and in its dependence upon the justice and the morality of our society which will aid the development of a sense of justice. That "moral sentiments are a normal part of human life, one cannot do away with them without at the same time dismantling the natural

attitudes as well” (Rawls 1971b:489). This implies that moral psychology deals with an aspect of the normal development of human beings, and therefore belongs within a comprehensive account of human psychology, but Rawls is not consistent with this view. (Baldwin, 2008:268). Baldwin analyzes his use of consciousness implicitly modeled after Hegelian mode to interpret his conception of self respect, a primary good that is both private and social. Our research goes beyond merely analyzing the importance of consciousness of oneself and others, its implication for self-respect and the perception of oneself and others; to its implication for mode of social relation that originates from the empathic understanding of the other.

Feminists’ contention with Rawls’ theory

Susan Moller Okin a feminist critic of Rawls and other political theorists, in *Justice, Gender and the Family* (1989), criticizes Rawls' theory for not accounting for the injustices and hierarchies embedded in familial relations. That is, injustices found in patriarchal social relations and the gendered division of labor, especially in the household. Since Rawls argues that justice ought only to apply to the "basic structure of society, Okin asks why the principles of justice should not be applied to the family. Her stance is that the family could not be exempt from a conception of justice. She argues that gender issues belong at the core, not the margins, of political philosophy. Okin considers herself a Rawlsian, but argues the philosophy needed revision. She

believes this would make it interface with the real world. This work agrees with her and embarked on the needed revision.

Other critics:

Other critics point to the obvious fact that from behind the veil, the individual might be less conservative than Rawls imagines. He might see all units of good as of equal value and thus prefer to maximize his probable return by accepting a maximum utility principle. Or he might notice that his chance of being in the middle upper class was better than that of being in the least advantage and thereby suggest a system that would maximize the goods of these classes even at the expense of the least advantaged.

The collectivists argue that Rawls has discovered the ground for the justification of the existing capitalist system and has shown that if the rich have the freedom to accumulate wealth, the poor would be automatically benefited. Even if the principle of 'fair equality of opportunity is strictly enforced; the existing disparities between the rich and the poor will not be substantially reduced. A slight improvement in the condition of the most disadvantaged people will be treated as an excuse to permit vast socio-economic inequalities.

Some others argue that the identification of the most disadvantaged people in the society is very difficult. If income and wealth are treated as the sole criteria for

identifying such people, how shall we compensate those who lack ability or who suffer from emotional insecurity?

Marxists condemn Rawls' derivation of the principles of justice in a hypothetical condition where people deliberate behind a 'veil of ignorance. Any deliberations without the knowledge of prevailing social and economic conditions are meaningless. Moral systems should always be analyzed in the light of class relations and the patterns of ownership of private property.

Libertarians also contend with Rawls, accusing him of sacrificing individual liberty on the altar of equality. Why should we force the meritorious and industrious to work for the benefit of the most disadvantaged people? Those who negotiate behind the 'veil of ignorance' in the 'original position' are not prepared to take risk, how would this help social progress since all entrepreneurs take risk for their advancement in life?

Communitarians also point out that Rawls' theory does not grade any conception of life as superior or inferior to others and this ethical neutrality evades the opportunity of the pursuit of the common good.

In conclusion, John Rawls has been criticized both rightly and wrongly; some of the wrong ones are based on biased interpretation of his theory of justice. John Rawls argues that the problem of justice consist in ensuring a just distribution of 'primary goods'. He posits a unique methodology that combines the value-systems of

liberalism with libertarianism, egalitarianism and communitarianism for arriving at a unanimous procedure of justice and asserts that the principles that would evolve from this procedure will ensure equal liberty, fair equality of opportunity and bring about the greatest benefit for the least advantaged members of the society. He by his theory lays down the design of welfare capitalism which takes on a redistributionist agenda, actively involves the government not merely in the maintenance of social order but also in the achievement of distributive justice that places a premium on meeting the needs of the most disadvantaged in the society. This heralded the dawn of humane, just and fair economic system and society.

CHAPTER THREE

MODIFICATION OF JOHN RAWLS' ETHICAL THEORY

3.1 Introduction

This study argues that a modification of John Rawls' ethical theory is imperative to enable it bring about social consciousness and alignment that will make it applicable to corporate governance. This chapter attempts to justify the needed modification of John Rawls' ethical theory and subsequent modification of the theory. The justification would bring to the fore the hermeneutic interpretation of various influences on Rawls theory such as Kant, Husserl and communitarian ideas. The modification would present a theory that is more applicable and practicable in social relations.

3.2 Identified Problems in Rawls' Ethical Theory

The problem with Rawls' ethical theory begins firstly with his conception of a person that becomes pruned in the Original Position by the application of the 'veil of ignorance'; secondly, his categorization of society as a union of social units thereby acknowledging the interconnectedness and 'intersubjectivity' of persons without exploring its essence in social relation to the logical conclusion that could actualize just social relations; thirdly, his exclusion of the private society (competitive market) which, is according to him is "a certain aspect of the basic structure that is actually

realized” (Rawls 1971b:522) from the group of contractees. Thereby denying them moral and rational capacities, inclusion into the social units that makes up society, excluding them (a part of the structure) from the application of the principle of justice as fairness which is applicable to the whole structure; fourthly, drawing resources from Sentimentalism without following it to its logical conclusion or acknowledging this. These are the only problems in Rawls’ ethical theory that this research attempts to resolve. These unaddressed issues makes it inapplicable to social relations in the society and unable to inform just, fair and humane institutional arrangements.

The fundamental claim of John Rawls’ ethical theory is that morality is a way of achieving autonomy, a life which combines respect for individual freedom with recognition of our essential dependence upon others who have equal status. This dependence is not merely practical but it is such that, we can normally realize our own conception of the good only through co-operative activities with others. That is, ‘the self is realized in the activities of many selves’ (Rawls 1971b:565). This involvement with others necessitates compliance with principles for social cooperation, and these principles count as moral principles only insofar as they can be viewed as principles which we and others would choose to impose upon ourselves because there are reasons for them which respect ‘our status as free and equal moral persons’. Thus by internalizing the fact of our essential dependence upon others we recognize the social requirements of this interdependence as moral principles whose application to us is not a limitation of our autonomy, but a condition of it.

In spite of this fundamental claim of his theory, he creates issues that this research tackles and is listed as follows:

1. By introducing the 'veil of ignorance' he truncates the logical outcome of internalization of interdependence of rational and moral persons in social relations, thereby constituting a negation of the pivotal role of his aforementioned concept of persons.
2. The 'veil of ignorance' does not make the Original position logically applicable to ethical issues in real life situations.
3. By not explicitly acknowledging the inherent notions of sentimentalism, he could not complement his Kantian brand of rationalism with it in a way that could provide the sufficient condition for the formulation of the principles of justice from a social contract arrangement.
4. He excludes competitive market, an essential and 'certain actually realized' part of social institution whose reverberating effect upon all aspect of human existence cannot be overestimated from the whole social institution in the formulation and application of his Principle of justice as fairness.
5. These issues undermine the applicability of his ethical theory in real life social relation situations and its ability to inform the structure of just and fair social institution. This has also opened Rawls' elaborate ethical theory to various reworking that does not make this research unique in its enterprise but rather

determined to make it successfully applicable to social relations in general and relations within corporations in particular.

3.3 Justification for the Modification of John Rawls' Ethical Theory

The explanations offered for the modification of Rawls' ethical theory relies on hermeneutic reading of Rawls' theory. This hermeneutic analysis exposes influences on Rawls' thought, such as Husserl's, Kant's, communitarian ideas etc; and his success and failure in reflecting them in his ethical theory. These influences – philosophers, ideas, ideologies etc will be outlined and discussed as follows:

Edmund Husserl:

John Rawls, in his ethical theory, uses ideas traceable to Husserl such as normality, alterity, intersubjectivity in his concept of persons, social union (Rawls, 1971b: 565-567) and the idea of consensus in his *Political Liberalism* (1996). He also recognizes the need for persons to and the fact that they do undergo infinite process of socialization as members of society. This encompasses the actuality of real human existence such as our expectation of certain characteristics of people in a normal society. These characteristics are such as being egoists, altruists etc. He also emphasizes the reality of intersubjectivity in a society, its importance in the realization of life goals and expectations and in his concept of social unions.

He however merely acknowledges the fact and reality of intersubjectivity without exploring its instrumentality and essence in social relations which goes beyond recognising that people have diverse aims, ends and goals but in aiding their actualization through an intersubjectively communalized means or method. That is, beyond the interrelatedness of persons in the society and the essential dependence of persons upon others, the realization of individual aims, goals, objectives and conception of the good depends essentially on social cooperation. Therefore, to make Rawls' Original Position potentially historical and beneficial to society, the veil of ignorance must be removed since it is inconsistent with the facts of real human existence. This implies that the contractees in the Original Position who are rational and moral people must deliberate on the choice of principle of justice without a veil of ignorance; explore intersubjectivity in their consensual agreements. They will be guided by principles such as their essential equality, their liberty, intrinsic worth of human beings, people possessing dignity, who are autonomous who should not be used as mere means to an end.

Also, Rawls' recognition of the rationality of the contractees alludes to historicity which according to Husserl is a "...component particular objects are equipped with mutually corresponding and harmonious constitutive system" (Husserl, 1996:108). This concept of rationality can be further utilized by engaging instrumental reasoning in the deliberation at the Original Position such that everyone attains their ends.

Immanuel Kant:

The idea of rationality according to Tampo Nicholas, originates from Kant. Kant represents persons as having two moral powers; one of which is empirical practical reason. This is the power to use means-end reasoning to attain desired objectives (Tampo, 2007: 90). Also, the idea of autonomous individuals possessing intrinsic self worth and dignity who should not be used as mere means to an end originates from Immanuel Kant.

Neglect of Private Society

John Rawls' aversion to apply or extend his principle of justice as fairness to what he calls private society that is, the business sphere of the society, which according to him, is a 'certain aspect of the basic structure that is actually realized' (Rawls, 1971:521), seems to be an error. The application of his ethical theory, that is, his principle of justice as fairness, is essential to the assessment of how the proposed structure of social institution will pan out for the process of distribution of scarce resources which it informed. The economy of any society is an essential part of its basic structure; there is no assessment that should not include it, as it is part of the merit and dessert system of any society. Even Karl Marx explicates its importance through his sociological arrangement of society such that a 'material base' consisting of three layers – means of production, forces of production and social relationships of production (system of relations connecting capitalists and workers) – form a

foundation on which superstructures of dependent variables such as law, politics, art, religion and philosophy rests (Wolff 1995: 118-120). By implication the societal substructure conditions the superstructure, changes in the substructure evolves corresponding changes in the superstructure. And according to Marx and the Marxists, the economic structure of a society affects other aspects of social life. “States differ according to the class they serve and the economic basis on which they arose... However diverse the form of government, however much it may change, the type of state, its class nature, remains unaltered within the framework of the given economic system” (Afanasyev, 1968: 282). Therefore, the inclusion of private society, that is, corporate governance in the formulation and application of Rawls ethical theory by this research is necessitated by the enormous impact of the role of economics in human lives in the society.

Furthermore, his exclusion of the private society from his theory’s application can be traced to his assumption about the moral nature of people in competitive market and the need for sanction in their institution (Rawls, 1971:522). He denies these people of morality, moral sense and sense of justice; excluding them from the group of moral and rational beings, thereby negating his moral psychology edifice which he proposed as applicable to all persons

Communitarian ideas:

John Rawls' ethical theory describes society and social union in communitarian terms. For instance, Amitai Etzioni's concept of community as a shared set of social bonds or a social web which is distinct from one-to-one bonds, bonds which are in and of themselves morally neutral, they carry a set of shared moral and social values (Etzioni, 1995: 20). Also, Rawls' concept of society is akin to Blackburn's description of communitarianism, which is "a model of political organization that stresses ties of affection, kinship and a sense of common purpose and tradition" (Blackburn, 2005:68). And communitarian notion of the common good requires that individuals pursue their goals within the structure of society and to look for their personal good as part of the good of the whole society. But Rawls does not take his communitarian alliance to its logical conclusion. Whereas, taking it to its logical conclusion will aid the meshing of the inherent sentimentalism in his work with its apparent rationalism to create an in-depth theory that is really applicable to all forms of social relation.

These reworking and modification are essential in making Rawls' ethical theory more robust, logical and potentially historical and applicable to real life social relations. The modification will enable it become entrenched in social consciousness and this will aid social compliance and alignment.

3.4 The proposed modification

The architectonic of the proposed modification stands on two basic concepts namely, the notion of the nature of man and the prescription of ethical personalism.

Every theory, thought or idea advanced about the human society from antiquity till date is based on a presumed notion of the nature of man. For instance, Plato argues that man is a tripartite being whose actions are informed by the delineation of that stratification. Plato infers from this, the structure of society, hence the basis of his political theory. Aristotle sees in man a social animal that needs society for its sustenance as well as the fulfillment of his ultimate potential. Thomas Hobbes in his *Leviathan* (1651) aligns with the psychological egoists that man is a naturally selfish being whose actions are guided principally by his self-interest. Rousseau Jean-Jacques on the other hand believes and argues for the virtuous man, who lived peacefully in his innocence in the state of nature until the acquisition of private property in organized society ushered in crises. (Rousseau, 1963: 292) Karl Marx claims that man is a social animal who needs to express himself in the production of work for work's sake and not primarily for sustenance. John Stuart Mill argues for an absolute ban on all state or social intervention in the inner life of thoughts and feelings of individuals, and that society ought to protect the widest possible expression of individuality, in order to allow the human spirit to discover its innate potentialities. (Mill J.S. 1955) Immanuel Kant claims that man is an autonomous being who should

never be used or manipulated but should be treated and related to as an end-in-itself; a being who has capacity for rationality. John Rawls agrees completely with Kant's concept of man as being autonomous with inviolable rights, political liberties and equal opportunities in the society. Rawls claims that man is both rational and reasonable, and places a premium on the notions of no arbitrary distinction of persons in the allocation of rights and duties, positing that this alongside the principles of justice maintain the proper balance in the society. (Rawls, 1971b:15)

It is evident that the perception of man has through all epochs evolved and dictated the prevalent political and socio-economic systems. For instance, when man is not perceived to have inviolable rights, where rights are not secured by justice and therefore are 'subject to political bargaining and to calculus of social interest'; the operational principle then will be that of utility and utilitarianism, the political and economic systems will be such that is based on 'maximizing the algebraic sum of advantages irrespective of its permanent effects on the people's basic rights and interests' (Rawls, 1980: 14).

Just like the above, the rethought version of Rawls' principle of justice is rooted in a moral philosophy called Ethical Personalism. It is a theory that emphasizes the importance and uniqueness of human beings. It argues that the human person should be the ontological and epistemological starting point of philosophical reflection. It "investigates the experience, the status, and the dignity of the human being as person,

and regards this as the starting-point for all subsequent philosophical analysis” (Williams, 2009: 25). It is a reaction to both intellectual and socio-political tendencies which appear to treat man simply as an object of scientific study or to reduce him to his function in the economic sphere or in the socio-political totality. Ethical Personalism informed Kant's Categorical Imperative and underpins Rawls' Contractualist theory of justice.

Kant lays a foundation of the necessary perception of persons as autonomous rational individuals who have a conception of their life goals and the rational capacity to achieve such goals, who are not to be manipulated or used under any guise whatsoever as means to any end but should be seen and related with as ends-in-themselves. (Kant, 1785: 185) Rawls builds on this by stipulating the principles of justice that equal, free and rational persons would agree to and adopt for a just basic structure of society in order to arrive at a well-ordered society. And he defines the appropriate division of social advantages such that, ‘there will be equality in the assignment of basic rights and duties, and the social economic inequalities (will be) just if they result in compensating benefits for everyone especially the least advantaged in the society’ (Rawls, 1971b: 14). Rawls acknowledges that persons are rational, self-interested, having needs, interest, capacities, whose “inviolable rights are founded on justice such that welfare of society cannot override it neither is it subject to political bargaining or the calculus of social interest” (Rawls 1971b:3). This

corroborates Husserl's concept of 'normality' and 'historicity' which presupposes the expectation of these essential traits in persons in the society (Husserl 1996:235).

In order to strengthen the modification structure, this study includes other conception of the human person from Heidegger, Husserl and Nancy who posit that persons are 'beings-with' 'open beings' in a community of beings, as this elaborates human interdependence and intersubjectivity. "Every singular being 'stands out' towards other singular beings; community takes place for 'others' and through 'others'" (Nancy, 2003:285). This goes to show that our natural and emotional ties to each other play an integral role in our reflective commitment to justice. If we recognise that we are 'open beings' and are ontologically 'beings with others' it drives home the importance of justice in relation to 'the other' This further highlights the interdependence of beings which will evolve the needed social environmental consciousness and subsequent alignment that will bring into corporate governance reality the essence of the 3 Ps – People, Planet and Profit. Rawls situates his principles of Justice as Fairness informed by his liberal and egalitarian stance within the community as it concerns human interactions and relations, such that in making procedural justice an instrument of satisfying the requirement of social justice, social interactions and social institutions would acquire a fair, just and humane look and structure. There is therefore, a bond between the economic system and the society as it concerns how and with what criteria scarce goods, services, opportunities, benefits, power and obligations are allocated in the society as this has a direct impact on the

society. This research therefore, takes the application of the principle of justice as fairness to its logical conclusion which is economic activity that dictates how scarce resources are distributed because politics and economics are symbiotic in relation.

This study's modification rests on the claim that in an ontologically real original position, rational persons can come together to agree on and propose the fundamental rules of their engagement, the basis of laying claims on one another and the mode of sharing the burdens and benefits of their mutual coexistence and collaboration. These rational persons would through the engagement of instrumental reasoning, empathic understanding of the other and mutual respect, propose fundamental principles that could evolve just, fair and humane social structures and institutions. The idea of ethical personalism eliminates the need for the introduction of Rawls' veil of ignorance.

While for Rawls, the Original Position though a thought experiment, is guided by the 'veil of ignorance', this research posits that the introduction of veil of ignorance truncates the logical progression of the rational and moral psychology entailed in his conception of person. It hinders the normality of persons and their potentiality in a world of intersubjectivity and interconnectedness. This study's variant is as follows:

The contractees are as Rawls proposes them to be, they are self- interested people. They are rational, possessing a sense of justice and having conception of their ends and life goals. This study proposes that they also have the following:

(a) They are all equal that is, they have the same rights in the procedure for choosing principles, can make proposals, submit reasons for submitting them etc.; this equality is based on the similarity that exists between them first as moral persons and secondly, as beings having a conception of their good and capable of a sense of justice (Rawls, 1971b:19).

(b) Their perception of equality entitles them to press their claims upon one another and to see themselves in a condition of social cooperation among equals for mutual advantage.

(c) Each person desires to protect their interests and their capacity to advance their conception of the good life. (Rawls, 1971b:14).

(d) The contractees are representational of all groups of people existing in the society in terms of race, sex, religion, career, and class etc. not just family heads.

(e) The contractees employ Instrumental reasoning, empathic understanding of the 'other' as having needs, interest, desires that are comparable to one's own; the reality of our interconnectedness, interdependence and intersubjectivity that binds one with the 'others'. This establishes that all are on a par with one another with the ensuing need for the recognition of the 'other's' needs, aspirations and desire; such that this ensures that "we can normally realize our own conception of the good only through co-operative activities with others that is, 'the self is realized in the activities of many selves'" (Rawls 1971b:565). All these are engaged in the process of deliberating on

the principles of social justice instead of the veil of ignorance to bring about a just and fair procedure that will produce just and fair ethical theory.

This procedure is essentially complementing Rawls' rational choice with sentimentalist notion of sympathy and empathic understanding of the 'other'. This brings about the realization among the contractees and subsequently the larger community that, essential involvement with others necessitates compliance with principles for social cooperation, and these principles count as moral principles only insofar as they can be viewed as principles which we and others would choose to impose upon ourselves because there are reasons for them which respect 'our status as free and equal moral persons'. This is corroborated by Falaiye when he asserts that "every human being depends upon his/her cumulative experiences with others for clues as to how he should view and value himself" (Falaiye M. 2008:404). Thus by internalizing the fact of our essential dependence upon others we recognize the social requirements of this interdependence as moral principles whose application to us is not a limitation of our autonomy, but a condition of it.

The intention of this study is to make the modified theory of justice applicable to all social relations such that it becomes a foundation for corporate governance. For a relevant outcome for the reconstructed Original position, this study put together some of John Rawls' principle of justice as fairness with the sustainability imperative embedded in the Triple Bottom Line philosophy to form the modified principle of

justice as fairness. According to Savitz, Andrew & Weber K., “sustainability imperative is about the realization that for the environment to be preserved and society to benefit from business, corporations must respect the interdependence of various elements in society on one another and on the social fabric. Sustainability means operating a business in a way that acknowledges the needs and interests of other parties and that does not fray but rather reinforces the network of relationships that ties them together. The triple element of this philosophy argues that business activity should be measured in economic (sales, profits, ROI, taxes paid, monetary flows and jobs create); environmental (air and water quality, energy usage and waste produced) and social costs and benefits (labour practices, community impacts, human rights & product responsibility) (Savitz, Andrew, Weber K., 2006:xi-xiii)

The principles that could be agreed to by the deliberators (contractees) are as follows:

1. Each person must respect the “interdependence of various elements in society on one another and on the social fabric in order for harmonious social relations to be realized, the environment to be preserved and society to benefit from corporations.
2. Each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others.

3. Each ought to operate in a way that acknowledges the needs and interests of all stakeholders and that does not through its operations fray but rather reinforces the network of relationships that ties them together.
4. Social and environmental cost and benefits will always take priority above economic cost and benefits. Instead of profit being the only bottom line it will be a **Triple bottom line**: of people, planet then, profit.

That is, Social cost and benefit – labour practices, community impacts, human rights, product responsibility.

Environmental cost and benefit – preserving air & water quality, energy usage, waste production

Economic cost and benefit – sales, profits, ROI (return on investment), taxes, and jobs created.

5. In the distribution of burdens and benefits of mutual cooperation (a) burdens are to be shared in such a way that makes it meaningful and capable of ensuring fulfilment for all. (b) Benefits are to be shared in a way that enhances the actualization of each person's conception of good life and rational plan. (c) Distribution of benefit must reflect the mutual respect for the essence of interconnectedness and interdependence of persons, inform the mode of distribution of scarce resources and must reflect each person's essential contribution to the realization of the benefit.

The principles that would evolve from the procedure above would inform social and environmental consciousness in the contractees as well as the larger community and would guide them into alignment. Implicit in this modified contract theory are ethical values which when infused into corporate governance could evolve fair and just corporations. These values are such that perceive man as a rational being who has ends as well as the capacity to maximize his self-interest and holds liberty sacrosanct. It asserts that men are fundamentally equal to other men, have equal rights and opportunities especially in determining things or affairs that affect their lives; that men are interconnected beings who flourish within socially established cooperative human activity.

Stakeholders in corporations are human beings that generally act based on their values, beliefs and monetarily motivated strategies; there is need for ethics to influence these actions to the benefit of all stakeholders. Business ethics provides principles and guidelines that assist people in making informed choices that balance economic interests and social responsibilities (Weiss, 2009: 24).

In applying this modified form of Rawls' principle of Justice as Fairness to social relations in society and corporations in particular, this study examines how his hypothetical 'original position' can be an ontological reality. Rawls claims that "at any time we can enter the original position, so to speak, simply by following a certain procedure, namely, by arguing for principles of justice in accordance with these

restrictions” (Rawls, 1971b: 19). This study proposes that corporations could appropriate this original position as part of organizational arrangement either at the commencement of business or to reform existent ones and could adopt it as part of their core ideology. That is, the original position can have ontological reality at the point when a new corporation is being planned, where the investors, the entrepreneur, the stockholders, the managers, the workers can jointly agree to the terms of their engagement.

This could be a period of initial equality where each person comes to the table as an equal member with his or her own interest and conception of how this interest, goal and end will be realized. It is at this stage that the principles of justice will be jointly agreed to and adopted such that it becomes the expression of their values both as individuals and as a social entity; it influences their joint goals and objectives, their social consciousness and sense of social responsibility as well as their environmental consciousness. Rawls opines that, these are principles that free and rational persons (both as primary members and secondary members of the corporate community), concerned to further their own interest would accept in an initial position. The principles of Justice as Fairness modified to suit corporations would then guide and inform contractual agreements between business owners, investors and all stakeholders of the primary community at the inception of engagement; and subsequent terms of association and agreement as things evolve in time, and the kind of social cooperation that can be established. This will entail co-deciding the basis for

assigning basic rights and duties and to determine the division of social benefits which are the benefits accruing from their joint venture. This original position creates an avenue for both primary and secondary stakeholders of the corporate community to decide in advance and as their spatiotemporal realities evolve how to regulate claims against one another and what the foundation charter of their association should be.

The outcome of this modification would be a more plausible principle of social justice that is applicable in most social relations. For the purpose of this research, it is applicable to corporate governance as it relates to its structure, goals, objectives, processes and its social responsibility and indeed stands a chance in constituting their foundation.

CHAPTER FOUR

CORPORATE GOVERNANCE: THEORIES, PRINCIPLES AND ANALYSIS

4.1 Introduction

The most influential institution within the society is the economic institution and corporate organizations constitute the primary economic institution. They provide “fundamental structures within which the members of society combine their scarce resources – land, labour, capital and technology- into usable goods (and services), and they provide the channels through which these goods are distributed in the form of consumer products, employee salaries, investors’ return and government taxes” (Velasquez, 2002:14). Corporate organizations irrespective of their size and reach constitute the economic engine of any society as they provide solutions to the various needs of the populace. Every business exists as a solution to specific societal needs or problems. These economic activities constitute part of “the activities of many selves, through which the self is realized” (Rawls, 1971b: 565); that is, the cooperative activities with others that ensures the realization of our own conception of the good. However, some of the operations of corporate organizations spew corporate issues that raise ethical questions about the morality of the organizational structure, its activities, policies, practices and processes. This research proffers a platform for maintaining balance between corporate organizations’ goals and objectives and ethical demands. This would lay a foundation for corporate governance by incorporating the

modified Rawls' ethical theory such that it influences organizational structure, informs strategy and policy formulation. This research therefore, analyzes corporate organizations using game theory analogy, which provides the channel for incorporating Rawls' modified ethics into corporate governance and even establishing its practicability.

4.2 Corporations and Corporate Governance: An Exposition

Corporate organizations are legal entities with the right to hold their own property and to perpetually exist as well as being a collection of primary and secondary stakeholders bound by an implicit social contract. Corporate organizations can be described as business units existing for the purpose of rendering services to the society as well as production of goods which altogether meet the needs of people in the society. Corporate organizations therefore exist primarily because there is a need to meet, a problem to solve either on a small or big scale. In every corporate organization, the human elements consist of two main groups namely, primary stakeholders and secondary stakeholders. A Stakeholder is anyone who is affected by a corporate organization's activities, decisions and even existence. Primary stakeholders consist of stockholders, business owners, shareholders, board of directors, managers, employees at all levels, suppliers; secondary stakeholders consist of consumers, government, host communities, the environment, and future generation. These stakeholders constitute the dynamic interrelationships that shape and reshape

corporate activities as they are channelled towards certain ends. Corporate governance entails the continuous process of ordering and controlling actions and activities generated in corporate interrelational webs through collectively constructed governing rules and instruments (Sun, 2013)

A very important aspect of understanding corporate organization is defining its place in the society, its right of existence and legitimacy and its obligation to society. This is essential in positing the premises for the interdependence and interrelatedness of all stakeholders as it concerns corporate organizations in the society. This is the implicit social contract agreement between society (host communities, consumers, suppliers, government, employees, global community and the future generation) and corporate organizations who either through their goods or services is allocating society's resources to meet needs. Social contracts as have been used by philosophers and socio-political theorists are abstractions or metaphors depicting an implicit agreement that justifies a government's legitimacy and the ties that binds the government to his people. When used in the business sphere, it is also still an abstract assumption that justifies the existence of corporate organizations, their legitimacy and it stipulates their obligations to the society. Thomas Donaldson defines social contract between society and corporate organization as an abstract indirect obligation that has concrete significance on the interaction between them. He argues that productive corporate organizations are social entities with enormous impact on every aspect of society but

that they need society to exist, survive and to have status; hence they must have obligations to the society. He posits a hypothetical terms of social contract as follows:

“We (the members of society) agree to do X, and you (the productive organizations) agree to do Y. Where X refers to the obligations of society to productive organizations and Y refers to the obligations of productive organizations to society” (Donaldson, 1982:37).

Defining X and Y obligations is an herculean task because due to the ever changing ever evolving local and global environmental realities- economic, technological, government and legal, demographic and social environments -; the constituents of X and Y are not static but dynamic as they keep increasing and changing with the time. This fact is corroborated by Henry Ford II in a speech to the Harvard business school in 1969 thus:

“The terms of the contract between industry and society are changing ... Now we are being asked to serve a wider range of human values and to accept an obligation to members of the public with whom we have no commercial transactions”.(Hoffman, Moore, 1984: 138)

This challenge does not preclude a basic framework of the social contract that serves as a moral foundation for ‘productive’ corporate organization’s existence and could also serve as a guideline for evaluating their performance. And performance here depicts advancing the welfare of persons in the society and the society as a whole while limiting or reducing anything that is inimical to individuals’ and societies well - being.

According to Donaldson, obligation X states:

1. Recognition of 'productive' corporate organization as a single agent, especially in the eyes of the law. (as individual entities)
2. The authority to (a) own or use land and natural resources (b) hire employees.

Given that there are two major categories of people primarily affected by the existence and operation of 'productive' corporate organizations the consumers and employees who contribute labour to the productive process of the organization. They both want their economic interests satisfied and advanced by the corporate organization. Hence, Obligation Y states:

For consumers:

1. Improved efficiency
2. Stabilizing levels of output and channels of distribution
3. Increasing liability resources
4. Minimize pollution and depletion of natural resources
5. Minimize the destruction of personal accountability
6. Minimize the misuse of political power

For employees:

1. Increasing income potential (and the capacity for social contribution)
2. Diffusing personal liability
3. Adjusting personal income allocation
4. Minimize worker alienation

5. Minimize lack of worker control over work conditions
6. Minimize monotony and dehumanization of the worker

This social contract has a justice caveat for its implementation which stipulates the advancement of social justice that enhances individual and societal well-being. (Donaldson, 1982: 37) In Rawls' terms, the social contract serves as the "principles that will choose among the various social arrangements how to determine the division of advantages and to underwrite an agreement on the proper distributive shares, hence, the principles of social justice. (Rawls, 1971b: 4) A public conception of justice constitutes the fundamental charter of a well-ordered human association. (Rawls, 1971b: 5) This social contract idea therefore, justifies the right and obligation of corporate organizations to the society and serves as the moral foundation for their relationship.

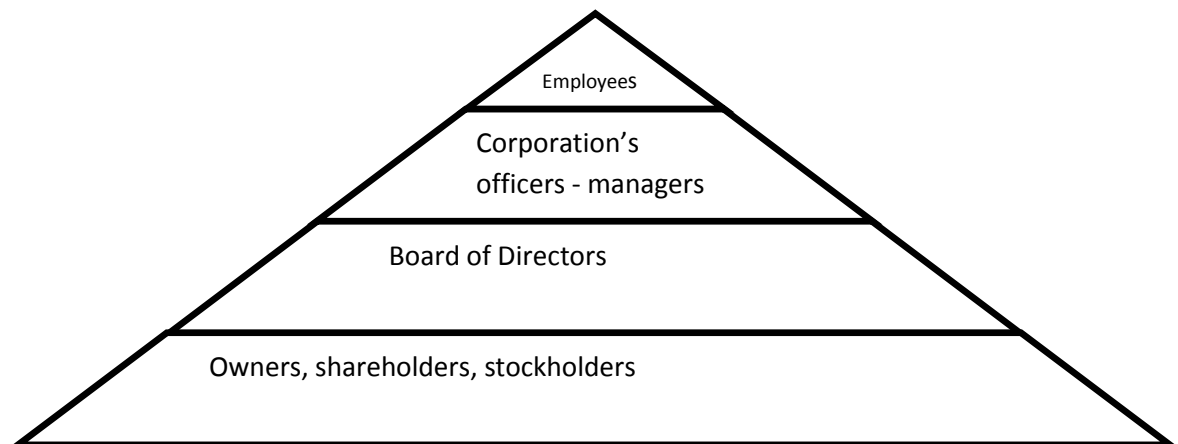
It is important to state that there is another form of corporate organization; these are corporations that are essentially not producing goods or services only for commercial purposes. They are usually non-profit corporate organizations. These organizations are established for the pursuit of some humanitarian goals or for ensuring the smooth running of governance. Some also serve causes such as the protection of community values, preservation of the environment, protection of rights and so on. Some operate independently from government and research institutes and some in collaboration with them. They are incorporated legal entities with corporate organizational structures whose main goal is not profit maximization but social

change, research utilization to impact public policy. But they are not the subject of this discourse.

4.3 Corporate governance

All corporate organizations have a pyramidal corporate governance image which is recognized and stipulated by the law; where owners of the corporation occupy the base of the pyramid followed by board of directors in the middle and at the apex of the pyramid are the corporations' officers – the employees (Nader, Green, Seligman, 1976).

Fig.1



This pyramidal image represents the rights and authority flow that flows from the bottom of the pyramid to its apex. The owners, stock and shareholders' of the corporation by the virtue of their being owners of the corporation have the right to elect and appoint representatives to direct the corporation and to approve fundamental decisions about the corporation. The board of directors' responsibility is to manage the business and affairs of the corporation such as hiring and firing corporation's

officers, approval of financial decisions etc. The corporate officers are responsible to the board of directors. This image has been criticized as being a legal myth especially where large corporations and multinational corporations are concerned as this order has been replaced by management autocracy. That is a situation where a man designated as the CEO, President, Chairman or a handful of men actually rule the corporation. And this has contributed if not solely responsible for the failure of operational checks and balances of corporations' management and thus various recent widespread mismanagement scandals (Nader& co, 1976).

Corporate governance can be described as the administration of corporate organizations in a way that build the reputation of such companies through high productivity, trust and good deeds shown toward their stakeholders while satisfying competitive demands of the market place by complying to laws and regulations that stipulate acceptable business practices; as stipulated in their own control systems and stakeholders relationships. Corporate governance is guided by both external regulations and voluntary self regulation to which compliance is a necessity (Weiss, 2009:166). That is, a way of administering a corporate organization such that it operates according to both external and internally stipulated rules and regulations, meeting society's needs and demands competitively while building good reputation and satisfying its shareholders' both primary and secondary expectation.

Corporate governance hinges on a clear cut process of directing and controlling the whole essence of companies or business corporations based on the principles of integrity, honesty, transparency and accountability in order to satisfy the interests of all stakeholders (Oso, Semiu, 2012: 2). The process by which managers provide leadership and direction, create enabling climate and link, systematize collaborative efforts to work group (Isele, Ugoji, 2009). Rwegasira & Sullivan defines corporate governance from a narrow perspective as being concerned with the structures within which a corporate entity receives its basic orientation and direction as well as a broad perspective as being the heart of democratic market economy (Oyejide and Soyibo, 2001).

The organization for Economic Cooperative Development (2004) defines corporate governance as comprising a set of relationships between a company's management, its board of directors, its shareholders and other stakeholders. It provides the structure through which the objectives of the company are set, the means of attaining them and performance monitoring and evaluation are determined. Corporate governance is a system that entrusts board of directors with the responsibilities and duties of being accountable to shareholders, the effective management of the company in the interest of the company and its stakeholders; establishing its checks and balances on ethical principles and values (Jayashree, 2006).

Shleifer and Vishny (1997) offered a definition that encompasses these elements: "Corporate governance deals with the ways in which suppliers of finance to

corporations assure themselves of getting a return on their investment” (Shleifer, Vishny, 1997: 737).

Corporate governance consists of the legal, contractual, and implicit frameworks that define the exercise of power within a company, that influence decision making, that allow the stakeholders to assume their responsibilities, and that ensure that their rights and privileges are respected. (Shleifer, Vishny, 1997: 737).

Going through all these conceptions of corporate governance, certain concepts stand out which are as follows: structure, process, ethics, accountability of managers to board of directors, the boards' responsibility to the stockholders, owners of the company, the primary and secondary stakeholders, the mediate and immediate communities and the future generation.

This research establishes the fact of the interdependence and interrelatedness of all stakeholders and the importance of incorporating ethics into the structure and processes of corporate governance.

4.4 Features of Corporate Organizational Structure

Corporate organizations have organizational configurations that define their values, posture and behavior. While some structures are unique to each corporation some are essential to all corporations alike. These structures are vital parts of an organization that reflect the ethical consciousness and posture of any corporate entity. To gauge the level of the embeddedness of ethical values in a corporation's consciousness, its ideology and its commitment to it, an assessment of these organizational structures is

all that is needed. Features of corporate organizational structures include information gathering and processing priorities; Criteria of management selection; Authority relationships between primary and secondary stakeholders. The way a corporate organization's goal is managed reflects in the "selectivity pertaining to information-gathering, choice of managers and a degree of centralization of authority" (Goodpaster, 1977).

The features of these structures are explained as follows:

1. Information gathering and processing priorities

This applies to the processes put in place by the organization to assess relevant information essential for their productiveness in a timely manner, as well as the processes of securing such information to protect its exclusivity to the organization. This has to do with information classification that demarcates crucial information necessary for protecting the organization, their business/success secrets/strategy, from those that are not so crucial that can be put out in the public space about the company and not at all crucial that is common information about most organizations.

2. Criteria of management selection

This applies to the processes put in place by some members of the primary stakeholder group to decide who and how a corporation's board of directors and managers should be selected; the determination of their duties and

responsibilities, the limits of their authority and autonomy; the scope of their accountability and the installation of checks and balances.

3. Authority relationships between primary and secondary stakeholders

This defines the type of hierarchical structure adopted by a corporate organization which dictates the relationship and interaction within the primary stakeholder group, the secondary stakeholder group as well as between both groups. It also displays the extent of centralization of power within the corporate organization.

4.5 The Mechanism and Principles of Corporate Governance

The ideal of rationality in organizational decision making gleaned from organization theorists like Herbert Simon (1976), Chester Bernard (1938) is depicting the mechanism of corporate organizational governance entails the following:

- **Imputation of joint decisions to the organization**, that is, decisions and actions taken by the corporate organization's representatives – employees, managers – as long as it aligns with the organization's goal is not counted as being that of the individual but at a decision or action taken by the corporate organization.
- **A set of constitutive goals** in terms of which the organization is defined and its rationality is assessed, that is, a corporate organization operates based on its

predetermined set of goals that differentiates it from other organizations, and its commitment to these goals serves as the measure of its rationality.

- **The exclusiveness of a means-ends conception of rational decisions**, that is, a rigid adherence to a means – ends notion of rational decision analogous to a language game of an organization.

Principles of Corporate Governance

Corporate organizations differ in their purposes, policies, practices and sizes; but their essential similarity lies in their nature and structure. Due to their importance and impact on society, especially when their actions like the fluttering of the butterfly wings that causes violent waves and eruptions, there is a consensus on the need for government to play an active role in ensuring their operations meet certain ethical standard. In recent times, there is a consensual adoption of corporate governance principles distilled from three documents – The Cadbury Report (UK, 1992); Principles of Corporate Governance (OECD, 1998, 2004) and the Sarbanes-Oxley Act of 2002 (US, 2002). The Cadbury and OECD reports are basically general principles governing corporate organizations to ensure proper governance; while the Sarbanes-Oxley Act, is an attempt by the United States government to legislate several of the principles recommended in the Cadbury and OECD reports. They are as follows:

Sarbanes-Oxley Act's Principles' of corporate governance:

1. Rights and equitable treatment of shareholders: This entails respect for shareholders' rights and aiding the exercise of this right by openly and effectively communicating information and by encouraging shareholders to participate in general meetings.
2. Interests of other stakeholders: This should be protected by the corporation's recognition of its legal, contractual, social, and market driven obligations to non-shareholder stakeholders, including employees, investors, creditors, suppliers, local communities, customers, and policy makers.
3. Role and responsibilities of the board: This includes possessing relevant skills and understanding to review and challenge management performance; as well as adequate size, level of independence and commitment
4. Integrity and ethical behavior: Integrity should be a fundamental requirement in choosing corporate officers and board members. Organizations should develop a code of conduct for their directors and executives that promotes ethical and responsible decision making.
5. Disclosure and transparency: Organizations should clarify and make publicly known the roles and responsibilities of board and management to provide stakeholders with a level of accountability. They should also implement procedures to independently verify and safeguard the integrity of the company's

financial reporting. Disclosure of material matters concerning the organization should be timely and balanced to ensure that all investors have access to clear, factual information.

However, to make these principles very effective, certain mechanisms have been designed by experts to control and reduce the inefficiencies that could arise from moral hazard and adverse selection in relation to corporate governance. For instance, the behaviour of managers can be monitored and checked by an independent third party in the name of external auditor who attests to the accuracy of the information provided by the management to investors. Other mechanisms of control for the effectiveness of these principles include: monitoring by the board of directors, internal control procedures and internal auditors, balance of power, standard remuneration, competition, takeovers, media pressure and surveillance, government regulations and so on (Oso, Semiu, 2012:6).

The essential regulatory framework of corporate governance is considered as either voluntary or mandatory. They constitute the constituents of global codes as well as the local ones which are tailored to meet the local needs of each country.

In Nigeria, as in most developed countries, observance of the principles of corporate governance has been secured through a combination of voluntary and mandatory mechanisms. In 2003, the Atedo Peterside Committee set up by the Security and Exchange Commission (SEC), developed a Code of Best Practice of Public Companies in Nigeria. The code is voluntary and is designed to entrench good business practices and standards for board of directors, auditors, CEOs etc. of listed companies including banks. (Wilson, 2006: 6)

These local, national and global codes are the principles of corporate governance that regulate the balance of power within the corporation, the allocation of scarce

resources to meet societies' needs, advance individual's and societies' well-being as well as protecting the interests of their stakeholders.

4.6 Corporate Governance: Its Philosophy and Theoretical Assumption

William Sun defines corporate governance as a continuous process of ordering and controlling actions and activities generated in corporate interrelational webs through collectively constructed governing rules and instruments. With defined and redefined intentions from series of mindsets and experiential practices, corporate governance aims at channeling corporate activities toward certain ends and in so doing, it is continuously shaped and reshaped by the dynamic interrelationships of all the governing actors (Sun, 2013). This definition confirms the interrelatedness and interdependence of beings in phenomenology as espoused by Husserl, Heidegger and further developed by Nancy. That is, it confirms the fact of individuals as “being – with”, “being –in the world”, as “open beings”. Bergson's process philosophy also highlights this interrelatedness of beings. All of this leads up to Rawls' conception of persons in the society as “union of unions”, his emphasis on the essential interdependence and interrelatedness of members in the society that makes it possible for members in the society to realize their individual conception of the good only through cooperative activities with others. That is “the self is realized in the activities of many selves” (Rawls, 1971b: 565). This cognition of interrelatedness and essential dependence on others in the society necessitates a definition of relationship between

these interrelated members of society. A long line of philosophers have promoted a concept of social contract that explains the legitimacy of social institutions, the ensuing rights and duties of citizens etc. Corporate governance holds that there is also an implicit social contract between corporations and the stakeholders – both primary and secondary stakeholders. This research opines that given the background of essential dependence on others to whom one is interrelated, corporate governance would entail “alterity” which is the consciousness of the existence of others with whom one must inevitably relate and interact; it concerns all questionings associated with the “other”. And corporate decision-making when infused with the modified Rawls’ ethical theory would incorporate Husserlian empathy/ *einfuhlung*. It is the state of being emotionally and cognitively ‘in tune with’ another person, particularly by feeling what their situation is like from the inside, or what it is like for them. As well as instrumental reasoning which is deliberation that entails drawing logical conclusions from premises such as reasonable justifications of facts and their implications, equal weighing of interests of people who will be affected by a particular action or thing, backed with a willingness to act on the resulting logically concluded deliberation. This then would lead to corporate organizations’ social consciousness – the ingraining of the “the other”, the promotion of human well-being in their consciousness that compel them to act on convictions and not just on mere obedience of laws or avoidance of sanctions. And the attending alignment- decisions and actions that are in conformity with the principle of humane social cooperation and

the commitment to the 3Ps- putting consideration for the people, the planet before profit.

Theoretical Assumption of Corporate Governance

Corporate organizations are economic entities. In the free market system their basic mission is the optimum distribution of scarce resources by producing goods and services at a profit and in doing this contributes to society (Friedman M., 1970). This is anchored on the utilitarian tenet of maximizing the good (pleasure, happiness) of the greatest number of people (the stockholders, shareholders). That is, the corporate organizations are to be managed in ways and manners that maximize the profit of the investors. The operative goals of corporations are the securing of their own survival, autonomy and economic growth; these form the basis for decision making. Corporate organizations are driven by the rational ideal of efficiency in achieving organizational objectives. This can be better understood in the light of language game analogy with corporate organizational structure.

4.7 Corporate Governance And Language Game Analogy

Language game according to John Ladd emphasizes the way language and action are interwoven (Ladd, 1970: 490) “I shall call the whole, consisting of language and the actions into which it is woven, the language-game” (Wittgenstein, 1953:7) It is beyond an abstract set of propositions of a formal system. It determines what should

and should not be done; it set goals and the processes of attaining them. Language-games determine how the activities within it are to be conceptualized, prescribed, justified, and evaluated; and to perform the logical function of defining the game itself. This is similar to the rules of chess which determine what a good or bad move is, how and when to make one and the intended objective (Ladd, 1970: 490). There is an obvious similarity between the language-game of corporate organizations and games like chess especially as its constitutive rules make them both logically autonomous.

Another defining feature of corporate organization is their decision making structure. This decision-making feature attributes to the organization all decisions, actions and choices made by its members on its behalf and in conformity with its goals and objectives, members of corporate organizations - employees, managerial staff, executive etc - its primary stakeholders. These decisions are deemed impersonal because they do not reflect the actors' personal leaning, preferences and choice; hence they are absolved of any responsibility for such decision; and are therefore agents or representatives of their organization. This decision making structure makes organizational officials, agents or representatives of the organization, his action, choices and decisions as long as they are aimed towards achieving the corporations' goal and objectives; are for the organization and the agents are not personally culpable nor bound by decisions made for the organization (Ladd, 1970: 492). According to

Simon, “decision is to be made non-personally from the point of view of its organizational effect and its relation to the organizational purpose” (Simon, 1965:9). Intertwined with this is organizational hierarchical structure where decisions are made and passed down from one high level to the lowest level for implementation; where individual preferences do not count. This feature of decision making coupled with organizational hierarchy absolves corporate officials’ actions, decisions and choices of any ethical value.

Another important trait of corporate organization is their goal which is an essential element in their language game just as it is in the game of chess. Organizational goals are the “objectives or set of objectives that are used as a basis for decision-making, that is, for prescribing and justifying the actions and decisions of the organization itself as distinct from the actions and decisions of individual persons within the organization” (Ladd, 1970: 495). The defining feature of corporate organizations distinguishing it clearly from other forms of socio-political organizations is that “they are deliberately constructed and reconstructed to seek specific goals” (Etzioni, 1964: 4) which is “securing their survival, autonomy and economic growth (Galbraith 1967:173).

The rational purpose of the goal in the organizational language game is to supply the value premises that inform decision making, their justification and evaluation (Ladd, 1970: 495) as well as being the “ethical premises for the objectives set for the

organization” (Simon, 1965: 11). Therefore, concerns and issues outside of these goals are automatically excluded as extraneous to the organizational decision making process as a logical requirement just in the way exclusion of the irrelevant is part of the principles of the language game. That is, corporate organization’s decisions and actions are logically intertwined with its goals, hence, decisions or actions that are unconnected to its goals are illogical. This can be further explained as stating that corporate organizations’ goal is for example making profit, all its decisions, strategies, plans and actions will be geared towards making profit and profit maximization. These organizations would not ordinarily embark on any action that is not aligned with this goal as to them it is illogical to do so.

Furthermore, the “sole standard for the evaluation of an organization’s activities and decisions is its effectiveness in achieving its objectives within the framework of existing conditions and available means. This kind of effectiveness is called rationality”. (Ladd, 1970: 496) That is, for corporate organizations, a “decision is organizationally rational if it is oriented to the organization’s goals. And rationality is neutral as to the goals to be attained” (Simon, 1965: 12).

In the corporate organizational language game therefore, the only standard of evaluating the organization’s decisions, actions and strategy is its rationality, which is, its effectiveness in achieving its set goals; issues that count in deliberations about its decisions, actions and strategies and in their evaluation are relevant in as much as they

align with the attainment of the organizations' goals. Other considerations in organizational decision making are conditions which are subject to empirical knowledge and investigation. These are factual conditions such as available means, costs and conditions of feasibility; and limiting operating conditions which set the upper limits to an organization's operations such as: scarcity of resources, of equipment, of trained personnel, legal restrictions etc. (Ladd, 1970: 496). These conditions are also logically relevant in decision making.

The problem with this language-game feature of corporate organizations is the fact that it emphasizes the incompatibility of ethics with the objectives and operations of corporate organizations. It plays into the hands of theorists like Milton Friedman who claimed that "there is one and only one social responsibility of business... to increase its profits ..." (Friedman, 1970: 125). Ladd argued that the only way morality or moral concerns could be relevant in corporate organizations is if it were taken to be part of limiting operating conditions and because moral issues do not belong to the sphere of empirical knowledge which limiting operating conditions must be, it can only be introduced indirectly as ethical premise, moral opinion or according to John Austin, positive morality (Austin, 1954: 125). This positive morality or moral opinion together with the religious beliefs and practices, laws and customs of the host community are essentially relevant to decision-making of corporate organizations if and only if they could affect the efficiency of the organizations' operations (Ladd,

1970: 496). This is corroborated by Simon thus: “decisions in private management like decisions in public management, must take as their ethical premises the objectives that have been set for the organization” (Simon, 1965:52); that is, corporate organizations cannot take their ethical premises from the principles of morality. Therefore according to Ladd,

for logical reasons, it is improper to expect (corporate) organizational conduct to conform to the ordinary principles of morality. We cannot and must not expect formal organizations, or their representatives acting in their official capacities, to be honest, courageous, considerate, sympathetic, or to have any kind of moral integrity. Such concepts are not in the vocabulary so to speak, of the organizational language-game, (neither in chess either). Actions that are wrong by ordinary moral standards are not so for organizations; indeed, they may often be required. Secrecy, espionage and deception do not make organizational action wrong; rather they are right, proper and indeed, rational, if they serve the objectives of the organization, they are ethically neutral (Ladd, 1970: 500).

The implication of this on social relations is a two way perception of actions and decisions. This breeds a double standard evaluation of actions; the standard used for corporate organizations is totally different from what obtains in everyday human interaction. That is, a company manager acts differently as an agent of his organization from when he is with family and friends, that is, what is considered norm of corporate behavior is contrary to normal proper social interaction. This double standard is not limited to agents or representatives of corporate organization who act or relate with the organizations as their representatives and outside the organization as human beings with full lives to live; it also obtains in the relationship between the

corporate organization and its representatives. This is the foundation of the perception of employees as mere disposable tools, mere means to ends. Given the language-game nature of corporate organizations, the corporation has no moral disposition towards its primary and secondary stakeholders; as long as such dispositions detract or it does not align with the organizational goals. According to Ladd, based on the language –game theory,

the individuals who are officers of an organization, that is those who run it, operate simply as vehicles or instruments of the organization. ...in principle any individual is dispensable and replaceable by another. An individual is selected for a position, retained in it or fired from it solely on the grounds of efficiency that is what will best serve the interests of the organization (Ladd, 1970: 505).

The only circumstance under which the stakeholders' interest gets considered is when it constitutes limiting operating condition. Secondary stakeholders' interest and rights according to this language –game theory is irrelevant to the organizational goal unless “these rights set limiting conditions to the effectiveness of the organization's operations or promoting such rights and interests constitutes part of the organization's goal” (Ladd, 1970: 500). This informs the reasoning of theorists like Milton Friedman who argues that the social responsibility of business is to make profit as doing so adds value to the society; Silk and Vogel also assert that, “the social responsibility of business is to make profits. The owners of each business enterprise should define the social responsibility of their enterprise as they see fit. This is the only way compatible with the rights of their owners...” (Silk and Vogel 1976: 138)

This also informs corporate organizations adoption of corporate social responsiveness in place of corporate social responsibility. While corporate social responsibility involves an organization's duty and obligation to respond to its stakeholders' and the stockholders' economic, legal, ethical and philanthropic concerns and issues (Weiss, 2009: 157); taking seriously their 'obligations to society' and actively trying to fulfill them (Freeman and Gilbert, 1988: 89-90); corporate social responsiveness is merely responding to needs as they arise or meeting specific needs in the society. Ladd further argues that because corporate organizations are driven by the rational ideal of efficiency in achieving its objectives and goals, it has no inherent capacity for morality and can only demonstrate morality on occasions of external pressure from law, public opinion and outrage spurred by breach of public trust and scandals.

4.8 The Implication of the Language Game Nature of Corporate Governance

The fallout of the language-game feature of corporate organizations is the moral dilemma primary stakeholders' face in their relationship with the corporate organization and with other stakeholders. Should primary stakeholders who act as agents or representatives of these corporate organizations use the same standard of morality they are required to use when acting on behalf of their organization in relating with the organization and other stakeholders, especially their colleagues or should they apply their personal standard of morality they adopt with friends and families outside the organization?

Would it be fair if they apply the social moral considerations or personal moral standard in relating with an organization that relates with them without any moral consideration unless such consideration aligns with organizational goals and objective? Is it fair to expect honesty, openness, dedication, conscientiousness, and respect from the stakeholders whom an organization does not deal with in like manner?

If corporate representatives use the same impersonal standard of morality the corporate organization uses, then stakeholders would be expected to be dishonest, disrespectful, disloyal etc; then what would become of the organizational goal of securing its own survival, autonomy and economic growth? Even if primary stakeholders apply their personal moral standard in relating with the organization, the moral schizophrenia would take its toll on the long run and they would reciprocate by treating the organization as a means to their own ends eventually. For instance, Freeman Edward R. and Gilbert Daniel R. Jr: In their book *Corporate Strategy and The Search for Ethics* (1988) posited an alternative corporate strategy namely, Personal Projects Enterprise Strategy which states that “Corporations should be means for individuals’ achievement and flourishing and not as collective ends in themselves where individuals have to subordinate their own goals to those of the corporation” (Freeman & Gilbert, 1988:81). The strategy holds the individual right and autonomy of individuals, especially, the employees sacrosanct; made provision only for the

protection of employees to the exclusion of other stakeholder groups. It did not concern itself with the sustenance of the corporation and even advocated against it.

According to Ladd:

Formal (corporate) organizations have no moral responsibilities and no moral rights; they have no moral right to freedom or autonomy. There can be nothing morally wrong in exercising coercion against an organization as there would be in exercising it against an individual. Hence ...it would be irrational for us as moral persons, to feel any scruples about what we do to organizations (Ladd, 1970: 510).

Instances of fraud, embezzlement and other sharp and corrupt practices abound in the corporate world to attest to this.

Other fallouts of the language-game structure of corporate organizations include dehumanization of man, trampling on human dignity; focusing solely on a materialistic and profit-oriented drives which are devoid of other considerations such as the human, ethical and spiritual dimensions of life, or at most pay lip service to the purported considerations of these dimensions. According to Albert Schweitzer, a German Philosopher, any civilization resulting from such a stance is “like a ship with defective steering gear which gets out of control at a constantly accelerating pace, and thereby heads for catastrophe” (Schweitzer, 1961: 20). It perpetrated the loss of dignity of man to the extent that according to Schweitzer “in every respect, our individual existence is depreciated; it is becoming ever difficult to be a personality” under this system (Schweitzer, 1961: 20). Similarly, Emmanuel Mournier decried the ‘depersonalizing forces’ inherent in the structure and operations of corporations thus;

“I sin against the human person if I treat my workers as tools, I sin against the human person each time I drive a living person to identify himself with his functions and behave towards him as if he were reduced to these functions” (Mounier, 1985: 738-739).

Ladd’s account of the ideal of rationality of formal (corporate) organization which posits an uptight dichotomy between corporate rationality and moral responsibility; represents the dominant model of organizational behaviour both in terms of descriptive-explanatory studies of that behavior and in terms of people’s expectation (if not ultimate appraisals) of that behavior (Goodpaster, 1977: 4).

Goodpaster posits a leeway from this impasse by arguing that in the ideal of rationality of corporate organization’s analogy with language-game, where organizational goals or decision-making premises are compared to the game rule of chess; while the game rule of chess is mostly static, organizational goals or decision-making premises are dynamic. This is because corporate organization’s premises tend to be dynamic, that is, their mandates and goals are subject to constant stress, evolution in the presence of the complex pressures both from within and outside the corporate coalition. This leads to changes in the organization’s goals. Though organizations rationality includes purely ‘means to ends components but the ends which are often taken as given are not unalterable. It is not rational for efficiency to exhaust the concept of rationality in formal organization as it is not rational for such

corporate organization to abdicate control over the development or change of those ends. (Goodpaster, 1977: 5)

Another margin proposed by Goodpaster in bridging the incompatibility between ideal of organizational rationality and moral responsibility is in his analysis of the concept of morality or moral responsibility and its interpretation. According to him Ladd's concept of deontological morality is Kantian in nature and can be outlined as follows:

- a. Moral decisions are imputed to the individual agents who are their authors, not to or from something else;
- b. Moral responsibility is not a matter of pursuing efficiently a goal or set of goals, that is, it is not essentially instrumental in character; and
- c. Morality involves a conception of rationality in which respect for the integrity and freedom of persons is central.

According to Ladd expediency which is the goal and end of organizational rational decision making is not logically compatible with the moral responsibility accruing from the aforementioned concept of deontological morality (Goodpaster, 1977: 5).

Ladd explains that in morality, instrumental rationality

...reduces the relationship between human beings to the category of means to an end, a category in which they do not belong. It makes the only point of a rational action the function that it plays in 'means-ends' chains. The only point of keeping a promise, for instance, is the effect that doing so will have on my ends or the ends of others. This way of looking at rationality reflects what seems to me to be essentially an amoral position, for it reduces

morality, which is a matter of the relations between human beings, to what is useful or expedient for some purpose or other (Ladd, 1970: 515).

For Goodpaster, a moderate interpretation of this deontological morality would bridge the gap of incompatibility argued by Ladd. If interpreted moderately thus: consideration of consequences for persons' ends is held to be relevant but insufficient for morally responsible decision-making (Frankena, 1973: 57); then "there is a definite, even essential, place for consequential 'means-ends' reasoning in moral decision-making, even if this sort of reasoning does not exhaust morality" (Goodpaster, 1977:6).

The implication of these two arguments is that after all, there is a way morality becomes part of the decision-making process of corporate organization. That is, while they are exhibiting their rationality through expediency, moral responsibility becomes an essential part of it. That is, corporate organizational rationality must include not just the efficient pursuit of established decision-premises and goals, but also, the clear cut criteria for the analysis and modification of those goals and ends. Morality is relevant not only to these criteria but to any organizational ends or goals (Goodpaster, 1977:7). This is corroborated by Simon thus: "it is not enough for organizational behavior to be oriented towards its own objectives alone, as these objectives are not static; they do change in response to the influence of the stakeholders whose personal values become secured through the achievement of the objectives" (Simon, 1976: 114)

It is therefore evident that the rational ideal of corporate organizations becomes perfected with the influence of controlled adaption of organizational goals; as this creates a conception of moral principles as constituents of organizational goals or at the least as criteria for controlling the goals (Goodpaster, 1977: 7). That is, corporate organizational goals and objectives can be modified by moral principles in a way that it does not detract from its efficiency as a rational agent but aids its acceptance of its moral responsibility to its primary and secondary community members. This research argues that the modified Rawls' theory of justice as the foundation of corporate governance could dictate what corporate organization accepts as its moral responsibility; influence corporate organizational structure in such a way that incorporates checks and balances in the power and authority flow to forestall management tyranny; entrench core values; inform strategies, goals and corporate social responsibility.

In view of the flaws and vices the structure and operations of corporations are fraught with; this research proposes the adoption of modified John Rawls' principle of Justice as Fairness as the ethical theory informing and guiding corporate governance and social responsibility so that corporate organizations can be humane; truly contribute to the good of society and reflect the social value of justice. For according to Rawls, "any institution no matter how efficient and well-arranged must be reformed and

abolished if it is unjust” (Rawls, 1971b: 3) and the structure and operations of corporations on all count is agreed to be unjust, hence the need for its reformation.

Secondly, this work deduces that it is obvious that strategies, principles, goals and objectives based solely on profit maximization and on the famous theory of utilitarianism which entails maximizing the ‘algebraic aggregate’ of general good and advantages at the expense of some people’s basic right and interest has not only failed but has made a mockery of earlier claims to ethical guidance.

This means that, business governance must be driven by ethical strategies that are people, socially and environmentally conscious and must not pay lip service to its responsibility to the society as is done in social responsiveness. The primary community of stakeholders within the business enterprise must be governed with ethically informed strategies such as the modified principle of Justice as Fairness so that this “I” and “We” tension within the business organization will be balanced. This should also apply to the secondary community of stakeholders to maintain a balance between it and the business enterprise. Given that “men’s inclination to self-interest necessitates vigilance against one another, their public sense of justice makes their secure association together possible; because among people with disparate aims and purposes, a shared conception of justice establishes the bonds of civic friendship; the general desire for justice limits the pursuit of other ends. Hence, a public conception

of justice constitutes the fundamental charter of a well-ordered human association”.

(Rawls, 1971b: 5)

In conclusion, the corporate organizational nature, structure and ideal of rationality as it is, is flawed with errors that are inimical to its own autonomy and survival, hence the need for the inclusion of moral responsibility and ethical prescriptions and restraint. The principles that will evolve from the proposed modified principle of justice as fairness would inform social and environmental consciousness in the deliberators being representative of both primary and secondary stakeholders and would guide them into alignment. Implicit in this modified contract theory are ethical values which when infused into corporate governance could evolve fair and just corporations. These values are such that perceive man as a rational being who has ends as well as the capacity to maximize his self-interest and holds liberty sacrosanct. It asserts that men are fundamentally equal to other men, have equal rights and opportunities especially in determining things or affairs that affect their lives; that men are interconnected beings who flourish within socially established cooperative human activity.

CHAPTER FIVE

MODIFIED JOHN RAWLS' ETHICAL THEORY AS A FOUNDATION FOR CORPORATE GOVERNANCE

5.1 Introduction

Stakeholders in corporations are human beings that generally act based on their values, beliefs and profit motivated strategies; there is need for ethics to influence these actions to the benefit of all stakeholders. Business ethics provides principles and guidelines that assist people in making informed choices that balance economic interests and social responsibilities (Weiss, 2009: 24). It is important to know that history has shown that comprehensive regulation and rigorous penalties alone do not motivate people to fulfill their roles in society or to always behave honestly and with integrity. And so there is need to appeal to reason, to engage instrumental reasoning and empathic understanding of others (both primary and secondary stakeholders) in proposing the needed ethical guidance.

Given the aim of corporate governance which is channeling corporate activities toward certain ends and in so doing, it is continuously shaped and re-shaped by the dynamic interrelationships of all the governing actors; the interrelatedness of all stakeholders both primary and secondary as beings-with-beings, interconnected interdependent beings becomes an essential aspect of corporate governance. Because it is against this background of all stakeholders who are beings-with-beings,

interrelated and interdependent beings whose relationship with one another is dynamic that the appeal to reason, to the engagement of instrumental reasoning, mutual respect and empathic understanding of the other becomes logically relevant and plausible to make the modified principle of justice (principle of humane social cooperation) become the foundation of corporate governance and corporate social responsibility.

This chapter focuses on the application of the modified ethical theory of John Rawls to corporate governance. It achieves this through the appropriation of the Original Position to corporate governance and by infusing into the mechanism of corporate governance the modified ethical theory such that it is enabled to influence the core values, strategies and goals of corporation.

5.2 Appropriation of Original Position to Corporate Governance

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The focus of this chapter is on the application of the modified ethical theory of John Rawls to corporate governance. It achieves this through the appropriation of the Original Position to corporate governance and by infusing into the mechanism of corporate governance the modified ethical theory such that it is enabled to influence the core values, strategies and goals of corporation.

In applying this modified form of Rawls' principle of Justice as Fairness to social relations in society and corporations in particular, this study attempts to make Rawls' hypothetical 'Original Position' an ontological reality. Rawls claimed that "at any time we can enter the Original Position, so to speak, simply by following a certain procedure, namely, by arguing for principles of justice in accordance with these restrictions" (Rawls, 1971b: 19). This study proposes that corporations could

appropriate this original position as part of organizational arrangement either at the commencement of business or to reform existent ones and could adopt it as part of their core ideology. That is, the original position can have ontological reality at the point when a new corporation is being planned, where both primary and secondary stakeholders - the investors, the entrepreneur, the stockholders, the managers, and the workers can jointly agree to the terms of their engagement. Just as John Rawls entreated us to imagine an original position, we can likewise conceive of an Original Position in relation to corporations, at varying times such as when a business idea is conceived and those with the ideas are negotiating with those who will either buy it or run with it by birthing and managing it; when a corporation is about to be born and its identity and goals are been defined; or just when constituents of the primary and secondary stakeholder groups are deliberating about their interests and goals or when such interests and goals are being deliberated upon by selected representatives or entrepreneurs. Whenever and however this deliberation takes place, it has the following characteristics:

1. It is a period of initial equality where each person comes to the table as an equal member with his or her own interest and conception of how this interest, goal and end will be realized.

2. It is at this stage that the principles of justice will be jointly agreed to and adopted such that it becomes the expression of their values both as individuals and as a social entity;

3. It influences their joint goals and objectives, their social consciousness and sense of social responsibility as well as their environmental consciousness.

Rawls opines that, these are principles that free and rational persons (both as primary members and secondary members of the corporate community), concerned to further their own interest would accept in an initial position. The principles of Justice as Fairness modified to suit corporations would then guide and inform contractual agreements between business owners, investors and all stakeholders of the primary community at the inception of engagement and subsequent terms of association and agreement as things evolve in time, and the kind of social cooperation that can be established. This will entail co-deciding the basis for assigning basic rights and duties and to determine the division of social benefits which are the benefits accruing from their joint venture. This Original Position creates an avenue for both primary and secondary stakeholders of the corporate community to decide in advance and as their spatiotemporal realities evolve how to regulate claims against one another and what the foundation charter of their association should be.

The principles of justice that could be agreed to by all are as follows:

1. Each person must respect the “interdependence of various elements in society on one another and on the social fabric in order for harmonious social relations to be realized, the environment to be preserved and society to benefit from corporations.
2. Each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others.
3. Each ought to operate in a way that acknowledges the needs and interests of all stakeholders and that does not through its operations fray but rather reinforces the network of relationships that ties them together.
4. Social and environmental cost and benefits will always take priority above economic cost and benefits. Instead of profit being the only bottom line it will be a **Triple bottom line**: of people, planet then, profit.

That is, Social cost and benefit – labour practices, community impacts, human rights, product responsibility.

Environmental cost and benefit – preserving air and water quality, energy usage, waste production.

Economic cost and benefit – sales, profits, ROI (return on investment), taxes, and jobs created.

5. In the distribution of burdens and benefits of mutual cooperation (a) burdens are to be shared in such a way that makes it meaningful and capable of ensuring

fulfilment for all. (b) Benefits are to be shared in a way that enhances the actualization of each person's conception of good life and rational plan. (c) Distribution of benefit must reflect the mutual respect for the essence of interconnectedness and interdependence of persons, inform the mode of distribution of scarce resources and must reflect each person's essential contribution to the realization of the benefit.

These principles that would evolve from the modified procedure where the deliberators rather than be cloaked in a veil of ignorance, engage instrumental reasoning which is deliberation that entails drawing logical conclusions from premises such as reasonable justification of facts and their implications, equal weighing of interests of people who will be affected by a particular action or thing backed with a willingness to act on the resulting logically concluded deliberation; alongside empathic understanding of the 'other', mutual respect, that is, regard for the 'other's' autonomy, rational interest and considerations. This would inform social and environmental consciousness in the deliberators as well as the larger community and would guide them into alignment. Implicit in this modified contract theory are ethical values which when infused into corporate governance could evolve fair and just corporations.

5.3 Infusing the Mechanism of Corporate Governance with Modified Principle of Justice

Having concluded earlier that the ideal of rationality in corporate organization must include more than just the efficient pursuit of given or static decision-premises; that it must include criteria for the scrutiny and modification of those premises (ends) themselves; and that morality is relevant not only to these criteria but to any corporate organization's premises or ends; this study therefore infuses it with the modified principle of justice. This will not only help to scrutinize and modify corporate organizational ends and strategies but will also aid social consciousness and alignment.

Given that the ideal of rationality in organizational decision making entails:

- Imputation of joint decisions to the organization
- A set of constitutive goals in terms of which the organization is defined and its rationality is assessed
- The exclusiveness of a means-ends conception of rational decisions;

When infused with the modified principle of justice, the set of constitutive goals in terms of which the organization is defined and its rationality is assessed, it will adopt moral responsibility and will be enabled to complement its ideal of rationality with moral responsibility. This complement will aid corporate organizations to achieve its

formal ends and goals and at the same time be morally conscious, recognizing the ethical limitations on their actions as a result of the modified ethical principle; and genuinely shoulder moral and social responsibility.

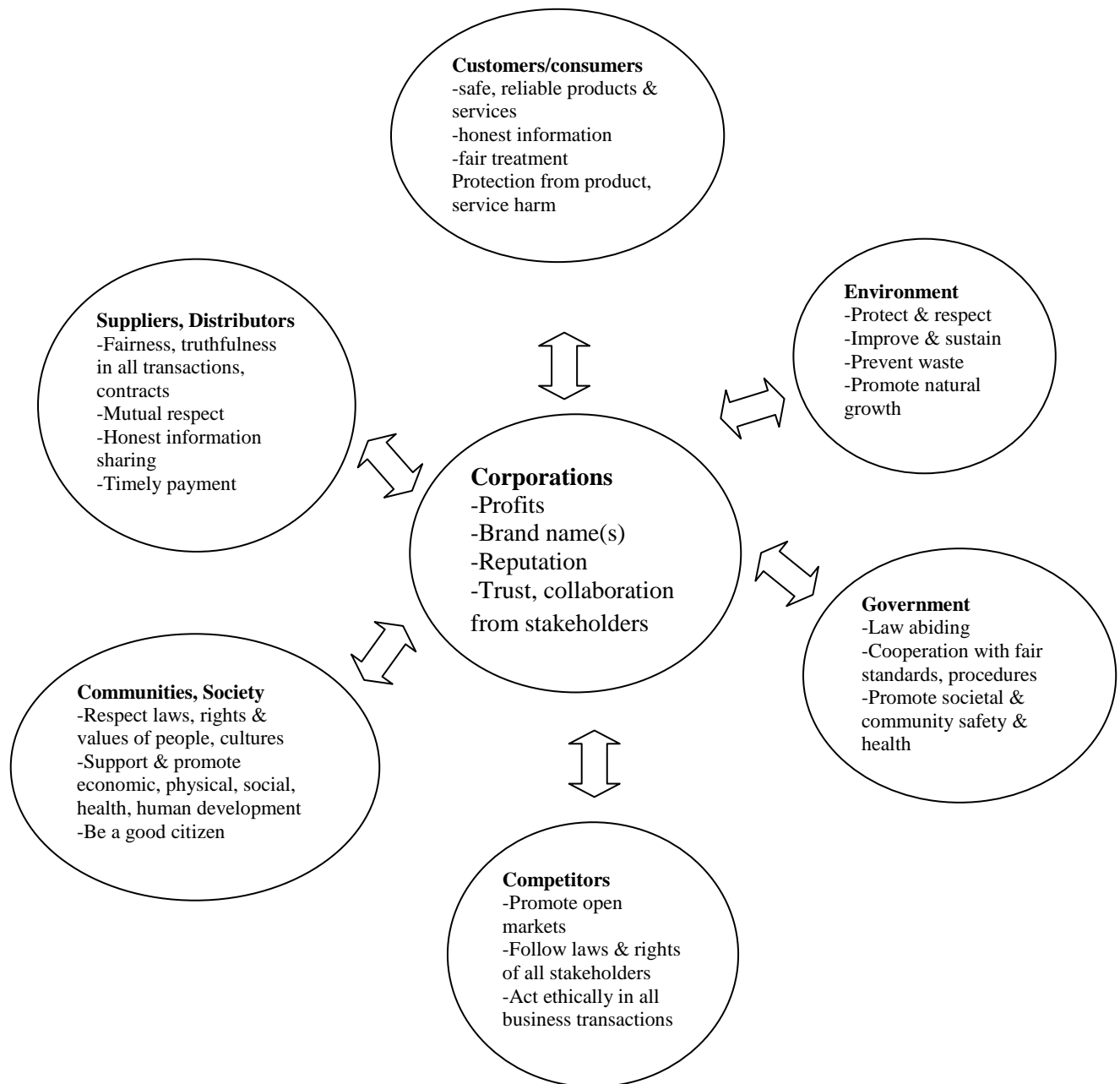
Furthermore, the influence of the infusion of the modified ethical principle would change the exclusiveness of a means-ends conception of rational decisions in corporate organizations. It will ultimately make organizational rational decisions compatible with moral responsibility such that rational decisions are structured or influenced by moral decisions and are attributable to individuals either in their own persons or as acting for their corporate organizations. Also moral responsibility will adopt an essentially instrumental nature that exceeds merely pursuing goals or set of goals efficiently. This will make the conception of rationality in corporate governance place at its core the integrity and freedom of persons, the fact of interconnectedness and interdependence of persons and the emphatic understanding of persons. Such that corporate organization's rational decision will entail reflection from the point of view of every stakeholder both primary and secondary members who this study categorizes as "every "concrete other" whom one might turn out to be...; to do so requires at the very least both strong empathy and preparedness to listen carefully to the different points of view of others" (Okin, 1989: 248).

This then constitute the ethical context from which corporate governance and its social responsibility are informed; economic, social and ethical goals becomes

intertwined. Corporations thus informed are able to respond to and meet their obligations to all their stakeholders, such that for their survival, sustainability and success, they are able to respond to legal, social, political and environmental claims from stakeholders as well as meet the economic mandates of its owners (Weiss, 2009:160).

The following diagram illustrates according to Weiss, the moral stakes and corporate organizations' obligation towards both their primary and secondary stakeholders:

5.4 Stakeholders, Moral Stakes and Corporate Responsibility



It is important to note that these moral stakes and responsibilities can only be protected and fulfilled when the fact of interconnectedness and interdependence of

persons represented in both primary and secondary stakeholders informs corporate governance and as such guides their relationship. The importance of this relationship which is both economic and social cannot be overestimated but it is its quality which is determined by corporate governance and its social responsibility that is more essential to the corporate organizations' success and long-term survival. Weiss calls this relationship covenantal ethics which like a social contract embodies the relationship between corporate managers and customers depicted in a "seller must care" attitude, their understanding and resolution of problems over both short and the long term and in the way they "are able to attract and mobilize followers to a vision and beliefs based on the relationship they develop with those being led" (Weiss, 2009:162-163).

This research posits that this type of relationship and its quality can be informed by the adoption of the modified Rawls' ethical theory (principle of humane social cooperation), where it informs the terms of engagement of all stakeholders and defines their foundation charter. It will then evolve a social consciousness and alignment that would create an enduring trust and credibility among all stakeholders. This modified Rawls ethical theory (principle of humane social cooperation) becomes a foundation for corporate governance when it helps define or influences the definition of what a corporate organization stands for and why it exists. This is referred to as timeless core values and enduring purpose of a corporate organization

which should never change and which is distinct from its operating practices and business strategies (Collins, Porras, 1994; xiv) which though bare the imprint of the modified ethical theory (principle of humane social cooperation), do change constantly in response to a changing world. The definition of this timeless, unchanging core values and purpose as well as its distinction from changeable corporate practices and strategies is important for corporate organization's governance, its humaneness, success and sustainability.

The application of the modified principle of justice to corporate governance reflects in the corporate organizations' identity – its definition of its core values and purpose; its relationship with both primary and secondary stakeholders.

Corporate Organization's Identity

According to Ladd, corporate organizations develop a set of constitutive goals in terms of which they are defined and their rationality is assessed (Ladd 2007:106). This embodies a definition as well as clear distinction between unchanging core values and purposes that defines what they stand for and why they exist; and their dynamic operating practices and strategies which evolve with constantly changing spatiotemporal realities. When the modified Rawls' ethical theory (principle of humane social cooperation) informs the term of engagement of both primary and secondary stakeholders of a corporate organization, the foundation charter of their association, then its ideal of rationality becomes compatible with its moral

responsibility. This will engender the actualization of its formal ends which are constrained by ethics and moral consciousness and the fulfillment of its moral and social responsibility. The importance of this is that, it will aid definition of its core values and influence its dynamic practices and strategies as well as an enduring commitment to it. This definition and distinction is very important for the success and sustenance of any corporate organization. According to Collins & Porras (1994), visionary companies

continually remind themselves of the crucial distinction between core and non-core, between what should never change and what should be open to change, between what is truly sacred and what is not. Hewlett-Packard executives by comparing their company to a gyroscope emphasized this key idea: gyroscopes are used to guide ships, aircrafts and satellites by combining the stability of an inner wheel with the free movement of a pivoting frame. In an analogous way, HP's enduring character guides the company as we both lead and adapt to the evolution of technology and markets" (Collins, Porras, 1994: XV).

That is, the modified Rawls' ethical theory – principle of humane social cooperation- would define what the core values and core purpose of a corporate organization is by stipulating ethical limitations on its decisions and actions as well as considerations borne out of its social consciousness that necessitates social alignment. It will aid the determination of the rules and term of engagement of all the primary and secondary stakeholders in the corporate organization, the basis of laying claims on one another and the mode of sharing the burdens and benefits of their mutual coexistence and

collaboration. This is further explicated in the modified ethical theory -principles of humane social cooperation- as follows:

1. Each person must respect the “interdependence of various elements in society on one another and on the social fabric in order for harmonious social relations to be realized, the environment to be preserved and society to benefit from corporations.
2. Each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others.
3. Each ought to operate in a way that acknowledges the needs and interests of all stakeholders and that does not through its operations unravel but rather fortifies the network of relationships that ties them together.
4. Social and environmental cost and benefits will always take priority above economic cost and benefits. Instead of profit being the only bottom line it will be a **Triple bottom line**: of people, planet then, profit (Savitz, Andrew, Weber K., 2006).

That is, Social cost and benefit – labour practices, community impacts, human rights, product responsibility.

Environmental cost and benefit – preserving air and water quality, energy usage, waste production.

Economic cost and benefit – sales, profits, ROI (return on investment), taxes, and jobs created.

5. In the distribution of burdens and benefits of mutual cooperation (a) burdens are to be shared in such a way that makes it meaningful and capable of ensuring fulfilment for all. (b) Benefits are to be shared in a way that enhances the actualization of each person's conception of good life and rational plan. (c) Distribution of benefit must reflect the mutual respect for the essence of interconnectedness and interdependence of persons, inform the mode of distribution of scarce resources and must reflect each person's essential contribution to the realization of the benefit.

These principles essentially emphasize interdependence of all stakeholders including future generation and the environment; respect of individual's rights and liberty and their essential equality; acknowledgement of the needs and interests of all stakeholders and respect for network of relationship between them; priority of social and environmental cost over and above economic cost – triple bottom line of 3Ps people, planet and profit; and the distribution of benefits and burdens of their mutual cooperation.

The effect of the application of the modified ethical theory -principle of humane social cooperation- on corporate governance manifests in the underlying processes and fundamental dynamics embedded in the corporate organization; in its

leadership aspiring to be organizational visionary, establishing the characteristics of a visionary company based on human ideals and values, needs and aspirations (Collins, Porras, 1994:41). It also highlights the interconnectedness of all corporate organizational stakeholders which acknowledges natural and emotional ties to one another grounded in the dignity, worth and humanity of ‘the other’ as it is in one’s self and this informs reflection about justice to ‘the other’ and their institution.

5.5 Corporate Organization’s Relationship with Primary Stakeholders

When the modified John Rawls’ Principle of justice is applied to corporate governance, its implication on the relationship between the corporate organization and the primary stakeholders in terms of perception, attitude, policies, procedures, processes and practices reflects commitment to social justice, human ideals etc. It mitigates the prevalence of limitless power, lawlessness, and recklessness, of injustice, exploitation, inequality amplified by pyramidal wage system and sundry vices associated with the modern corporate organizations.

It begins with the perception of one’s ‘self and ‘the other’ in the primary stakeholder group – stockholders, business owners, shareholders, employees, and suppliers. The corporate organization’s interaction with this group reflects the interconnectedness and interdependence of one on the others, the autonomy of each individual, and the importance of their needs, life goals and aspiration as well as the organization’s obligation to ensure equal opportunity. Corporate governance and social responsibility

informed by the modified principles of a conception of justice recognizes that all stakeholders in both the primary and secondary communities are fundamentally equal; this equality is based on the premise that each one is a rational being; and that each stakeholder has ends and goals that he or she intends to achieve by partaking in the cooperative venture of business; and each one is capable of a sense of justice. This informs the basis of corporate organizational relationship which George Cabot Lodge claims is of “consensus and rights and duties of membership in which the right to manage actually comes from the managed” (Hoffman, Moore, 1984:124). It also translates to equal liberties and opportunities for all stakeholders. Also corporate governance and social responsibility guided by this modified principle of Justice as Fairness recognizes that each stakeholder is a ‘real’ stakeholder who partakes in the capital creating venture, it then stipulates how the benefits and burdens of cooperation will be divided amongst all stakeholders such that the least advantaged members of the corporate communities will be the focus of considerations. For instance, among the primary stakeholders, the workers/employees are the least advantaged ones; this principle will stipulate how they will become owners of financial assets and not just their labour alone.

Principle 5 - In the distribution of burdens and benefits of mutual cooperation (a) burdens are to be shared in such a way that makes it meaningful and capable of ensuring fulfilment for all. (b) Benefits are to be shared in a way that enhances the actualization of each person’s conception of good life and rational plan. (c)

Distribution of benefit must reflect the mutual respect for the essence of interconnectedness and interdependence of persons, inform the mode of distribution of scarce resources and must reflect each person's essential contribution to the realization of the benefit.

This will evolve participatory management where: employees have a say in how the organization manages them and in decisions that affect them; that emphasizes the responsibility of developing organizational human assets; and organizational goals, decisions and activities are informed by perception of employees as: "a whole person living a 24-hour life; having characteristically human needs; has a pattern of inner motivation which is partly unique; and is endowed with motives which may be temporarily dormant but which when energized, can be more powerful than any externally imposed control" (Pigors, Myers, 1983:243).

The influence of the modified ethical theory (principle of humane social cooperation) on organization's relationship with employees will adopt humanistic system which emphasizes managerial responsibility to make work meaningful and potentially self-fulfilling to jobholders (Buchholz, 1978:458). It entails maintaining a proper balance between the organization's interest and that of the employees' especially in the face of changing global realities of massive outsourcing and downsizing etc. The organization must fulfil its obligations to its employees such as fair wages, safe working

environment, and working conditions that empower employees (Weiss 2009: 359-361).

The organizational structure is an important part of the whole reform process. There must be a clear demarcation between the roles of the board of directors and the corporate managers. While the managers work on managing with insight the evolving roles and functions of corporations and the interrelatedness of all stakeholders as well as working out apposite systemic solutions; the board of directors should be the active watch dog and disciplinarians. Their role should be clearly spelt out as follows:

1. They should establish and monitor procedures that assure that operating executives are informed of and obey applicable federal, state and local laws;
2. Approve or veto all important executive management business proposals such as corporate by-laws, mergers or dividend decisions;
3. Hire and dismiss the chief executive officer and be able to disapprove the hiring and firing of the principal executives of the corporation; and
4. Report to the public and the shareholders how well the corporation has obeyed the law and protected the shareholders' investment (Nader, Green, Seligman, 1976)

The importance of this division of labour is also emphasized by Irvin Shapiro as duties the board should not delegate and are listed as follows:

1. The determination of the board policies and the general direction the efforts of the enterprise should take
2. The establishment of performance standards –ethical as well as commercial- against which management will be judged, and the communication of these standards to the management in unambiguous terms
3. The selection of company officers, and attention to the question of succession.

4. The review of top management's performance in following the overall strategy and meeting the board's standards as well as legal requirements.
5. The communication of the organization's goals and standards to those who have a significant stake in its activities (insiders and outsiders) and of the steps being taken to keep the organization responsive to the needs of those people. (Shapiro,1979)

Crystal clear division of labour between managers and the board of directors, active watchfulness and a disciplinarian role need to be complimented with committed, competent people who perceive themselves as stewards and accountable guardians of the commonwealth of the primary and secondary stakeholders of the corporate organization; who hold sacred the responsibility of advancing the well-being of these interrelated, interdependent stakeholders.

5.6 Corporate Organization's Relationship with Secondary Stakeholders

The adoption of the modified Rawls' ethical theory (principle of humane social cooperation) will influence corporate organization's relationship with the secondary stakeholders - consumers, government, host communities, the environment, and future generation in a way that brings about harmonious interaction, boost public confidence and sustained successful existence of the organization. It would make corporations to go beyond mere responsiveness to societal needs which are the present definition of corporate social responsibility to existing as responsible members of the community who have obligations to the society. It also helps the corporate organizations' fulfilment of its obligation and meeting of their expectations to all members of the

secondary stakeholders such that to the: Customers/consumers – it provides safe, reliable; products and services; honest information; fair treatment; Protection from product and service harm. Environment – it protects and respect; Improves and sustains; prevents waste and promotes natural growth. Government – it is law abiding; it cooperates with fair standards, procedures; promotes societal and community safety and health. Competitors– it promotes open markets; follows laws and rights of all stakeholders; and acts ethically in all business transactions.

Sam Walton, (the founder of Wal-Mart stores once commented in a New York Times interview), “but I always had confidence that as long as we did our work well and were good to our customers, there could be no limit to us”. When modified Rawls’ ethical theory (principle of humane social cooperation) infuses corporate governance and social responsibility, its relationship with the secondary stakeholders especially would be harmonious, it will aid its productivity and long term success.

It will enable corporate organizations to operate with respect for the environment, ensure the health and safety of all stakeholders, honoring and enhancing the individual qualities the employees bring to their jobs, so as to realize as much of their potential as possible, to be good corporate citizens to their host communities and as much as possible help in offsetting community problems not only the ones they help create but as many as they can reasonably address (Shapiro, 1979). It will also enable corporate

organizations to take their obligations to their stakeholders seriously as responsible members of the society.

Infusing the modified Rawls' ethical theory – Principle of humane social cooperation- in corporate governance will ensure responsible corporate governance such that will put an end to employee exploitation and inhuman treatment. It will ensure that the 'race to the bottom' is significantly minimized and the establishment and enforcement of acceptable minimum levels of conditions and compensations for workers especially those on the lowest rungs of the socio-economic ladder. It will ensure they get paid living wages, protect their rights and autonomy, and respect their dignity as human beings with their own conception of the good life and the plans to achieve them.

CHAPTER SIX

APPLICATION OF MODIFIED RAWLS' ETHICAL THEORY TO CORPORATE GOVERNANCE IN NIGERIA

6.1 Introduction

John Rawls claims that “at any time we can enter the original position, so to speak, simply by following a certain procedure, namely, by arguing for principles of justice in accordance with these restrictions” (Rawls, 1980: 19). The modified Rawls’ ethical theory that is, Principle of humane social cooperation is applicable to most social relations in human community. It could bring about a balanced tension between the centripetal and centrifugal forces of a society while advancing the interest and well-being of both the individual and the society at large. The focus of this study however is on social relations pertaining to corporate organizations and its governance. This chapter is about corporate governance in Nigeria, it is an attempt to transcend theory into practice by prescribing a corporate governance culture that has modified Rawls’ ethical theory (Principle of humane social cooperation) as its foundation. This will begin with an assessment of the Nigerian corporate organizations and their governance as it is and from there proceed to prescribing corporate governance infused with the principle of humane social cooperation. That is, recommending the practicability and applicability of the modified Rawls’ ethical theory that is, principle of humane social cooperation in the formal sector of Nigeria’s economy, especially in

corporate organizations. It also looks at government policies as it relates to the processes of formalization of corporate organizations that covers social, economic and environmental impact assessment; labour policies especially as it concerns the challenges spewed by globalization and the flattening world.

6.2 The Nigerian Economy and Corporate Governance

Most economies in the world have mixed economic system where economic activities are controlled by both government and private individuals. These economies are operated as formal economies or informal economies or a mixture of both and in this, Nigeria is no exception. The activities of corporate organizations both within the formal and informal sector have been the growth engine of the Nigerian economy. The informal sector has the largest number of corporate organizations especially indigenous ones ranging from small and medium scale organizations to some large scale ones. This is due to the difficulties experienced in the Nigerian business terrain such as the lack of conducive business enhancing environment, lack of essential infrastructure, lack of financial assistance especially long-term loans needed by manufacturing companies and start-up businesses, and all other factors responsible for Nigeria's very low rating in the Doing Business Index. On the other hand, the corporations operating in the formal sector experience minimal shareholders' and governmental interference and checks on their activities. Many corporate organizations with the exception of multi-nationals, due to lack of proper registration

procedure, monitoring and evaluation on the part of government agencies such as Corporate Affairs Commission (CAC), irrespective of their sizes are managed as sole-proprietorships (one-man business) or partnerships; with many fictional or ‘on-paper-only’ board of directors. The consequence of this is that there are no crystal clear corporate organizational structures and processes. Hence, there are no clear-cut demarcation of roles between corporate managers and the board of directors, no adequate checks and balances to mitigate managerial tyranny, and there is minimal compliance to both internal and external regulations. Most of these organizations are built around their owners with no future of transcending their existence.

Corporate governance in Nigeria and in most sub-Saharan African countries is still at its rudimentary stage. According to Wilson, only 40% of companies, including banks quoted on the Nigerian stock exchange have recognized codes of corporate governance in place and poor corporate governance was one of the major factors in virtually all known cases of distress experienced by the country’s financial institutions (Wilson, 2006).

Nigeria as an emerging economy is in dire need of corporate governance and social responsibility that has ethical foundation. All ethical issues rampant in the developed economies are already manifesting here and worst still impacting the Nigerian economy negatively with attending devastating effect on Nigerian citizens. Within corporations, unrestrained power, tyranny, recklessness, lawlessness that results in

violation of internal and external law as well as corrupt practices, production and marketing of unethical products, abuse of shareholders and consumers' trust, varying degrees of exploitation and dehumanization have become the reality of Nigerian corporate organizations.

A recent example in Nigeria, where corporate organizational structure that ought to serve as watch dog colluded with the management to mismanage the funds of its customers is the recent scandal that rocked the banking sector. There are other instances of corporate mis-governance, corrupt practices and that led to the collapse of such corporate organizations. Several Chief Executive Officers have been charged with Fraud; some were arrested on many counts of corrupt, unethical practices charges and were arraigned before courts. Some of them are listed below:

In October 2006, the Board of Directors of Cadbury, Nigeria PLC announced the overstatement to the tune of over 85 million dollars in its accounts spanning a period of ten years. A leading stock broking firm, Maxi fund investments and securities and a group of shareholders numbering about 300 have taken Cadbury and Akintola Williams Delloitte, its auditors to court over what they described as flagrant negligence and disregard to duty by the board and management of the company (Dike, 2007: 5).

Other examples include, Samuel Adedoyin the Chairman of Doyin Group of Companies and founder of the defunct City Express Bank which was liquidated in

2005 and was taken over by the Central Bank of Nigeria (CBN) due to charges of misappropriating shareholders and depositors' funds (N1.257bn) that was diverted into his company's several accounts with City Express Bank. Bukola Saraki, a former governor and a serving Senator was the Vice Chairman of Societe Generale Bank. While at the helms of affair of the bank, the bank was thrown out of CBN's clearing house in June 2003. By early 2004, the bank and top management staffers were accused of involvement in N37bn fraud. Also, the former Managing Director of the now acquired Intercontinental Bank Plc Erastus Akingbola, is currently facing trial on a 40-count money laundering case filed against him by the Economic and Financial Crime Commission (EFCC). He was arrested for mismanaging depositors' funds traced to him. Moreover the former Chairman and Chief Executive Officer of First City Monument Bank (FCMB), Otunba Subomi Balogun was the first culprit of the unwritten code of corporate governance in Nigeria with the bank's foreign round tripping misconduct. The CBN had to ban the bank from international Foreign Exchange Market. He was also sacked from his twin offices of CEO and Chairman as well as banned from holding any active office in the service of the bank (Bravo, 2012).

The crusade of the Nigeria Agency for Food, Drug Administration and Control (NAFDAC) against illicit and counterfeit pharmaceutical products and food creates a bone chilling awareness of how far some corporate organizations could go to make money at the expense of the lives of fellow human beings.

It is against this backdrop, Sanusi Lamido stated that

... good governance is therefore an important step in building market confidence and encouraging stable, long-term international investment flows into the country. Since the business corporation is increasingly important engine of wealth creation and growth, not only in our economy but also worldwide, it is imperative that our companies operate within the standards that keep them well focused on their objectives and hold them accountable to the shareholders and for their actions (Sanusi, 2003)

In the same vein the Corporate Affairs Commission was established in 1990 due to the perceived inefficiency and ineffectiveness of the erstwhile Company Registry, a department within the Federal Ministry of Commerce and Tourism which was then responsible and administration of the repealed Companies Act of 1968. Recently, with Dr Olusegun Aganga at the helms of affairs of the Federal Ministry of Commerce and Tourism, CAC established a CAC Annual Corporate Citizens Awards. The objective of the award is to promote the culture of good corporate governance in the Nigerian environment by recognizing corporate citizens who have conducted their affairs to date in compliance with statutory requirements and best practices of corporate governance. To be eligible, nominees must have complied with the requirements of the Companies and Allied Matters Act, 1990 (Cap C20, LFN 2004) and respective industry laws to date, as well as statutory requirements such as are listed below:

1. Quality of Financial Management
2. Management of Stakeholders Relations

3. Workplace Environment
4. Corporate Social Responsibility
5. Industry Leadership
6. Innovation
7. Environmental Performance (<http://new.cac.gov.ng/home/>)

The formal economy in Nigeria would be easy target for the adoption of the modified principle of justice because of its formal structure and processes such that the stipulations could be easily applied and the impact readily measured. But the informal sector is reputed to be in dire need of the adoption and application of the modified principle of justice because of the prevalent exploitation, inequality and dehumanizing working condition in the sector. This study however proposes that government economic policies should aid the ease of formalization of corporate organizations such that there would be more formal organizations in the country.

6.3 Application of Modified Rawls' Ethical Theory (Principle of Humane Social Cooperation) To Corporate Governance in Nigeria.

The reform of corporate governance would enlist the commitment of all stakeholders, both primary and secondary stakeholder, government and its relevant agencies. This is also the case with Nigeria; in fact the government and its relevant agencies need to be more involved in seeing that corporate governance becomes effective in a way that enhances corporations' stability and sustainability. The application of the modified

ethical theory (principle of humane social cooperation) to corporate governance in Nigeria would take a two-pronged process. The government will have its part and the corporations too will have their part.

For the government, their role is basically to implement effectively the stipulated laws and regulations already in place in various ACTs, that corporate organizations are properly registered according to the stipulated CAC regulations, competent people are elected as board of directors and not just business owners children and relatives; to enforce stiff penalty for any violations and misconduct; so that the business environment will encourage compliance to global best practices of corporate governance.

The corporations have to operate with the knowledge that “there is a relation between corporate governance and corporate performance” (Patterson, 2003). With the problems experienced in the banking sector, corporate management (both managers and board of directors) need to operate with a mindset different from the prevailing one which is “lackadaisical commitment to real value creation, the overemphasis on short-term results, and a mind-set that believes wealth can be created without due regard to the rights and privileges of those who contribute to the process” (Page, 2005: 5).

It is equally important to establish that operating value-creating corporate governance is beyond complying with both internal and external codes and regulations. Also, very

strict government control and regulation could degenerate into oppressive systems of social control which could cause the stifling of ‘important personal human liberties’. The way out according to William Ophuls is, to improve the ethical nature of man by restoring the civic virtue of a corrupt people. That is, people must, acting as individuals, restore human dignity by developing the moral resources of self restraint and respect for others. We must impose our own laws and controls upon ourselves (Ophuls, cited in Donaldson and Werhane, 1999:332).

Therefore, the place of a Principle of humane social cooperation as a foundation for corporate governance is to essentially emphasize interdependence of all stakeholders including future generation and the environment that enhances moral responsibility. This brings about respect of individual’s rights and liberty and their essential equality; acknowledgement of the needs and interests of all stakeholders and respect for network of relationship between them; priority of social and environmental cost over and above economic cost – triple bottom line of 3Ps - People, Planet and Profit; and the distribution of benefits and burdens of their mutual cooperation. Its effect on corporate governance will manifest in the underlying processes and fundamental dynamics embedded in the corporate organization; in its leadership aspiring to be organizational visionary whose traits are underpinned by human ideals and values, needs and aspirations. It will also highlight the interconnectedness of all corporate organizational stakeholders which acknowledges natural and emotional ties to one another grounded in the dignity, worth and humanity of ‘the other’ as it is in one’s self

and this informs moral responsibility and reflection about justice to ‘the other’ and their institution.

To this end, corporate organizational structure, decision-making processes, its goals and objectives will reflect the commitment to this interrelatedness, the preservation of human worth and dignity, the advancement of individual stakeholder’s well-being and economic interest.

Corporate organizations will thereon, evaluate their goals, objectives, structure, processes and activities in the light of this principle of humane social cooperation. They will ensure that companies in Nigeria have appropriate structure where there are competent board of directors who are committed to their disciplinary roles and managers who operate within the limit of responsible autonomy. The following is a proposed evaluation standard for corporations and is as follows:

Corporate governance evaluation must, therefore, include an analysis of the principal strategies used to ensure the participation of all the stakeholders in the value-creation process.

To this end, this chapter set out the following seven standards:

- The company must behave in such a way as to earn the confidence of financial markets.
- The company must behave in such a way as to earn the respect of society.

- The company must behave in such a way as to earn the respect of democratic institutions.
- The company must behave in such a way as to preserve its credibility with creditors.
- The company must act in such a way as to earn the loyalty of its employees.
- The company must behave in such a way as to deserve its customers' loyalty.
- The company must have a sound business relationship with its suppliers.

If the modified principle of justice is infused into government's economic policies, it would ensure strict insistence and enforcement of corporate organizational impact assessment – social, environmental and economic impact on the social fabric and individual Nigerian citizens. This impact evaluation is an important part of the modified principle of justice as it emphasizes the beneficial existence and operation of corporate organization to itself, and both primary and secondary stakeholders. Before any company is registered, it must be made to fulfill the impact evaluation stipulation of the principle 4 of the modified principle of justice - Social and environmental cost and benefits will always take priority above economic cost and benefits. Instead of profit being the only bottom line it will be a **Triple bottom line**: of people, planet then, profit.

By Social cost and benefit it means – labour practices, community impacts, human rights, product responsibility.

Environmental cost and benefit – preserving air and water quality, energy usage and waste production.

Economic cost and benefit – sales, profits, ROI (return on investment), taxes, and jobs created.

An important core value ensuing from the adoption of this modified principle of justice by corporate organization is commitment to the Triple bottom line, where profit maximization as crucial as it is to a corporate entity's survival, is not the dominant driving force. According to Collins and Porras in *Built To Last (2002)* very many visionary companies were not driven solely by shareholder wealth maximization or profit maximization. Two of the examples of such companies are Hewlett Packard (HP) and Johnson & Johnson. Packard is quoted thus:

... a group of people get together and exist as an institution that we call a company so they are able to accomplish something collectively that they could not accomplish separately –they make a contribution to society... to make a product, to give a service, generally to do something of value... The real reason for our existence is that we provide something which is unique, that makes a contribution (Collins, Porras, 2002: 56)

Robert W. Johnson founder of Johnson & Johnson shared a similar view thus: enlightened self-interest wherein service to customers comes first ... service to employees and management second ... service to community next and service to shareholders last (Collins, Porras, 2002:58). In addition, TRW Inc. has a social policy that understands the duty corporate organizations have to its stakeholders and the society. Dr. Ruben Mettler, the president of TRW described its organization's social

policy as having three levels, the first level concerns its performance as an economic unit; the second is about the quality of internal conduct between the corporation and its employees; and the third level captures the extra effort the organization puts into positively impacting its external environment. He argues that the three levels are interwoven as they together define the primary and secondary stakeholders' importance to the organization (Mertes, cited in Donaldson & Werhane, 1999: 334-335)

Given these examples there is need for the adoption of modified principle of justice to birth a changed mindset among Nigerian industrialists and business moguls so that they will not just be "time tellers", but "clock builders" whose legacy will endure even beyond them.

Furthermore, everyone and all organizations involved in industrial relations in Nigeria both in the public and private sector would benefit immensely from the adoption of the modified principle of justice as it stipulates how persons are to be perceived, related with and treated. For instance, there is a disconnection between employees' expectation and the management's in terms of perception which according to Fashoyin "does not necessarily require monetary or material reward"; but only "to be recognised ... and to be treated as a person rather than an object" (Fashoyin T., 1980:3). Or as Kant's Categorical Imperative states, not as mere means to an end but as ends in themselves (Kant I. 1959). This modified principle recommends not only

proper perception of ‘the other(s)’ but also the realization of the fact of our interconnectedness and interdependence on one another for the actualization of our life goals and conceptions of good life and even of ourselves. That is, all are on a par with one another with the ensuing need for the recognition of the ‘other’s needs, aspirations and desire; such that this ensures that “we can normally realize our own conception of the good only through co-operative activities with others that is, ‘the self is realized in the activities of many selves’” (Rawls J., 1971b:565). In the same vein, Hobhouse argues that society is an indisputable partner in the creation, maintenance and guarantee of the prosperity of commerce. Therefore, taxation helps to pay back to society “the element in wealth that is of social origin,” that is, all that owes its origin to the efforts and both acts of omission and commission of living individuals (Hobhouse: 1911:81). This would back up moral reflection on the appropriateness of taxation, the need to contribute to the welfare of the weak, sick, old persons in the society. This would also influence labour engagements and practices as stipulated by principle 5 as follows:

Principle 5 - In the distribution of burdens and benefits of mutual cooperation (a) burdens are to be shared in such a way that makes it meaningful and capable of ensuring fulfilment for all. (b) Benefits are to be shared in a way that enhances the actualization of each person’s conception of good life and rational plan. (c) Distribution of benefit must reflect the mutual respect for the essence of interconnectedness and interdependence of persons, inform the mode of distribution

of scarce resources and must reflect each person's essential contribution to the realization of the benefit.

6.4 Its Implication for Nigerian Government, Corporate Governance and Workforce in the Flattened World

Globalization “involves the integration of technology, markets, politics, cultures, labour, production and commerce; it is both the processes and the results of this integration; due to its driving forces, this process is complex with results that differ in benefits and burdens depending on who the stakeholders are” (Weiss, 2009:420,423). Globalization birthed different kinds of burdens both in its definition and distribution in corporate governance and for the workforce affected in this flattened world. “Today's global economy is a knowledge economy, which requires fresh thinking and innovative approaches to workforce management” (Shinde, Shivani, 2008); beyond the challenge of sustainability of corporate organization in terms of management structure and organizational decision making process, corporate governance is encumbered with the challenge of workforce management in the globalized flattened world. This challenge birthed a change in the responsibility of government and corporate organizations towards the workforce, as the knowledge economy demands employable workforce. The responsibility to meaningfully contribute to the contemporary workforce's lifetime employability that begins with helping them become more adaptable through lifetime learning. Since there is no lifetime

employment anymore, Thomas Friedman (2006) suggests the following ideas or initiatives that could help the workforce in the flattened world as follows:

1. Corporate organizations could aid their workforce's lifetime learning by conducting a wide array of in-house learning and cross-training to enhance the widening of their skill base such that in the event they lose their jobs, they would leave more employable than they were initially employed. The adoption of the modified ethical theory (principle of humane social cooperation) would inform a seemingly implicit contract stating that – “You give me your labour, and i will guarantee that as long as you work here, I will give you every opportunity through either career advancement or training to become more employable and more versatile”.
2. The government could assist this process by providing subsidies or tax incentives to companies to offer these learning opportunities.
3. The government also has a lot to do in respect of the education system by funding tertiary institutions, providing incentives for the study of science, mathematics and engineering, massively funding research, increase availability of technical schools and make secondary education mandatory.
4. Also, there is need for collaborative solutions among government, labour, corporate entities to promote self-reliant workforce, provide comprehensive portable and mobile health-care coverage, and pension plans that operates on a universal platform to enhance their mobility.

5. To enhance workers' mobility, there is need to create more ways to make them owners of financial assets beyond their labour; such that they become stakeholders who share in the capital-creating side of the flat world, not just competitors in the global labour market. Public policy and corporate entities need to aid easy acquisition of stock options and other plans that could include them in the circle of capital owners as this makes the workforce more dynamic and productive.

6.5 Conclusion

The application of the modified Rawls' ethical theory (principle of humane social cooperation) to corporate governance in Nigeria would ensure that corporate organizations' policies, goals and activities become more people and planet oriented and the government would assist in any way possible to achieve this. It will also birth an amendment of pyramidal pattern of distribution of wealth, profits and benefits accruing from the joint venture of both the primary and secondary stakeholders; as well as give the workforce lifetime learning opportunities, help them become self-reliant, versatile, mobile and employable.

REFERENCES

- Adeigbo, F. A. (ed) (1994) *Readings in Social and Political Philosophy vol.2*, Ibadan: Claverianum Press
- Albert, E.M., Denise, T.C., Peterfreund, S.P. (1984) *Great Traditions In Ethics 5th Edition*, California: Wadsworth Publishing Company
- Aristotle, (1948) *The Politics of Aristotle*, trans. Ernest Barker Oxford: Clarendon Press
- Arrow J. K. (1973), "Some Ordinalist - Utilitarian Notes On Rawls Theory of Justice" in *The Journal of Philosophy* Vol. LXX, No. 9, May 10
- Austin J. (1954) *Province of Jurisprudence Determined, ed., H.L.A. Hart*. New York: Noonday Press
- Barry B. (1965) *Political Argument*. London: Routledge &. Kegan Paul
- Bates S. (1975) "The Motivation to be Just", *Ethics: An International Journal of Social Political & Legal Philosophy*. Vol. 85, 1974-1975
- Blackburn S. (2005) *Oxford Dictionary of Philosophy, 2nd edition*, Oxford: Oxford University Press.
- Buchholz R.A, 1978 "The Work Ethic Reconsidered" *Industrial and Labour Relations Review*, Vol 31, No.4 pp 450-459, July 1978.
- Bravo Magazine (2012) "25 Nigerian CEOs in Fraud Scandals" www.bravo-mag.com/25-nigerian-ceos-in-fraud-scandal/ December 15, 2012. Retrieved June 27, 2015.

Cadbury, Adrian, *Report of the Committee on the Financial Aspects of Corporate*

Governance, Gee, London, December, 1992, Sections 3.4

Cadbury, Adrian, *Report of the Committee on the Financial Aspects of Corporate*

Governance, Gee, London, December, 1992, Sections 3.2, 3.3, 4.33, 4.51 and
7.4

Choptiany L. (1969), "Distributive Justice: Some Addenda" *Natural Law Forum*,
spring edition

Choptiany L. (1973), "A Critique of John Rawls Principles of justice in *Ethics: An
International Journal of Social Political & Legal Philosophy*. Vol. 83

Clark B., Gintis H. (1978) "Rawlsian Justice and Economic Systems" *Philosophy &
Public Affairs* , Vol. 7, No. 4 (Summer, 1978), pp. 302-325. Published by:
Wiley Article Stable URL: <http://www.jstor.org/stable/2264960>, retrieved
15th March, 2013

Clegg S. R., Rhodes C. (ed) (2006) *Management Ethics contemporary Contexts*,
London: Routledge Taylor & Francis Group

Collins, J., Porras J. I., (1994) *Built to Last: Successful Habits Of Visionary
Companies*, New York: HarperCollins Publishers.

Collins, J., (2001) *Good to Great*, London: Random House Business Books.

Copleston F.S.J., (1989) *A History of Philosophy volume 9 Maine de Biran to Sartre
Part II Bergson to Sartre, Doubleday image Book*

Dike C. (2007) "Shareholders Sue Cadbury over False Accounts". *Business Day*
March 5, p5

Dilenschneider, R. L., (2000) *The Corporate Communications Bible*. Beverly Hills:
New Millennium press

- Donaldson, T. (1982) *Corporations and Morality*, Englewood Cliffs, New Jersey: Prentice-Hall
- Donaldson, T. & Werhane P. H. (1999) *Ethical issues in business: A Philosophical Approach*. Englewood cliff, N.J: Prentice Hall Inc.
- Falaiye M. (1994) *Neo-African Socialism: A Response To The Fallacies in African Socialism*, Unpublished Ph.D Thesis, Lagos: University of Lagos.
- Falaiye M. (2008) "The Image of The Black Soul From The Hut Near The Congo To The Banks of The Mississippi" in Opuku - Agyemang N., Lovejoy R. E., Trotman D.V. (eds) *Africa And Trans-Atlantic Memories: Literary And Aesthetic Manifestations of Diaspora And History*, Trenton N.J.: Africa World Press, Inc.
- Fashoyin T. (1980) *Industrial Relations in Nigeria: Development and practice*, Ikeja: Longman Group Limited
- Feinberg J. (1973) "Duty and Obligation in the Non-Ideal World" in *The journal of Philosophy* Vol.LXX, No 9, May 10, 1973.
- Ferrell, O.C., Fraedrich, J. and Ferrell, L. (2005) *Business Ethics: Ethical Decision Making and Cases 6th edition*, New York: Houghton Mifflin Company
- Fletcher J. (1966) *Situation Ethics: The New Morality*. Philadelphia: The Westminster Press
- Flew, A. (ed) (1979) *A Dictionary of Philosophy*, London: Pan Books Ltd
- Frankena, W. K. (1997) *Ethics 2nd edition*, New Delhi: Prentice-hall of India Private Ltd
- Frazer M. L. (2007) "John Rawls: Between Two Enlightenments" *Political Theory*, Vol. 35, No. 6 (Dec.,2007), pp. 756-780 Published by: Sage Publications, Inc. Article Stable URL: <http://www.jstor.org/stable/20452599>, retrieved 15th March 2013

Freeman, E. R. and Gilbert, D. R., (1998) *Corporate Strategy And The Search For Ethics*, New Jersey: Prentice Hall Inc.

Freeman S. (ed) (1999) *Collected Papers*. Cambridge: Harvard University Press

Friedman, T.L. (2006) *The World Is Flat: The Globalized World in The Twenty-First Century*, London: Penguin Books

Friedman M. (1970) "Social Responsibility of Business is to increase its profit". *New York Times Magazine*, September 13, 1970, pp 122-136

Galbraith J. K., (1967) *The New Industrial State*. Boston: Houghton Mifflin

Gastil R. D. (1973) "Beyond a Theory of Justice" in *Ethics: An International Journal Of Social Political & Legal Philosophy*, Vol. 83

Gauba O.P. (2003) *An Introduction to Political Theory 4th edition*, New Delhi: Macmillan India Ltd.

Giovanni Pico della M. (1956) *Oration on the Dignity of Man*, Introduction by Kirk Russell, trans Caponigri Robert. Illinois: Regnery Gateway

Goodpaster K. E. (1977) "Morality and Organizations" in *The Proceedings of the Second National Conference on Business Ethics*, ed. Michael Hoffman. Waltham, Mass.: Center for Business Ethics

Habermas J., (1990) *Moral Consciousness and Communicative Action*. trans. by

Christian Lenhardt and Shierry Weber Nichol森. Cambridge, Massachusetts: The MIT Press,

Hampshire S. (1972) "A New Philosophy of The Just Society" *New York Review of Books*, February, 24.

Heidegger M. (1959) *An Introduction to Metaphysics*, trans by Manheim R. London:

YaleUniversity

Hoffman M. W., Moore J. M. (1984) *Business Ethics: Readings and Cases in Corporate Morality*, New York: McGraw-Hill Book Company

Hornby A.S. *Oxford Advanced Learner's Dictionary 7th edition*, Oxford: Oxford University Press

Husserl E. (1996) *Intersubjektivitat II*, Quoted in Zahavi D. in Husserl's Intersubjective Transformation of Transcendental Philosophy" in *The Journal of The British Society for Phenomenology*, vol. 27 (3)

Isele G., Ugoji E., (2009) "Stress Management and Corporate Governance in Nigerian Organizations". *European Journal of Scientific Research*, 27(3): 472-478

Jayashree S. (2006) *Some Views on Corporate Governance. Indira Management Review*. Indira School of Management Studies. Punc:Tathawade

Kant I. (1959) *Foundations of the Metaphysics of Morals*, translated by Lewis White Beck, Indianapolis: Boobs-Merrill Library of Literal Arts

Ladd J. (1970) "Morality and the Ideal of Rationality in Formal Organizations" *The Monist*, Vol. 54, October 1970.

Levine I. (ed) (1959) *Philosophy: Man's Search for Reality*, London: Odhams Press Ltd

Little D. (2012) "Rawlsian Ethics" [http:// www.little-d-rawlsian-ethics-critique](http://www.little-d-rawlsian-ethics-critique).

Retrieved March 2012

Lodge, G.C. (1984) "the Ethical Implication of Ideology" Reprinted by Hoffman

- and Moore *Business Ethics: Readings and Cases in Corporate Morality*. New York: McGraw-Hill Book Company
- Mappes T. A., Zembaty J. S. (2002) *Social Ethics: Morality and Social Policy 6th Edition*, New York: McGraw-Hill Higher Education
- Mill J. S. (1955) *On Liberty*, ed by Kirk Russell, Chicago: Henry Regenery
- Nader R., Green M., & Seligman J. (1976) *Taming the Giant Corporation*. New York: W.W Norton
- Nancy J.L.(1991) *The Inoperative Community*. Minneapolis MN: University of Minnesota press
- Nancy J.L. (2003) *A Finite Thinking*. Stanford, CA” Stanford University Press
- Ndubuisi F.N. (2008) *Man and State*, Lagos: Foresight Press
- Nozick R. (1974) *Anarchy, State And Utopia*, New York: Basic Books
- OECD (2004) *Principles of Corporate Governance*. Preamble and Articles I, II, III, V and VI". Paris: Organization for Economic Cooperative Development Retrieved 2011-07-24.
- Oso L., Semiu B. (2012) “The Concept and Practice of Corporate Governance in Nigeria: The Need for Public Relations and Effective Corporate Communication”.
- Oyedeki T. Soyibo A. (2001) “Corporate Governance in Nigeria”. Paper presented at The Conference on Corporate Governance, Accra, Ghana, 29-30 January, 2001
- Okeregebe A. (2011) “Phenomenology and The Ethics of Tolerance”, *The Nigerian*

Journal of Philosophy, University of Lagos, Vol. 24, No 1. 2010/ Vol. 24, No. 2, 2011

Okin S. M. (1989) *Justice, Gender, and the Family*, New York: Basic Books.

Omoregbe J. I. (1993) *Ethics: A Systematic and Historical Study*, Lagos: Joja Press

Page J.P. (2005) *Corporate Governance and value creation*. Sherbrooke: The Research Foundation of CFA Institute

Panza C., Potthast A. (2014) *A Snapshot of Key Ethical Theories*.

<http://www.dummies.com/how-to/content/ethics-for-dummies-cheat-sheet.html> Retrieved 10/11/2014

Patterson, J. 2003. *The Patterson Report: Corporate Governance and Corporate*

Performance Research. The Corporate Library:
[www.thecorporatelibrary.com/ Governance-research/patterson-report/patterson.asp](http://www.thecorporatelibrary.com/Governance-research/patterson-report/patterson.asp).

Perrow (2002) *Organizing America: Wealth, Power and the origins of Corporate Capitalism*. Princeton, NJ: Princeton University Press

Pigors P., Myers C. A. (1981) *Personnel Administration: a point of View And A Method 9th Edition*, Tokyo: McGraw-Hill International Book Company

Pogge T. (1989) *Realizing Rawls*, Ithaca: Cornell University Press

Powers C., Vogel D. (1980) *Ethics in the Education of Business Managers*. Hastings-on-Hudson: Institute of Society, Ethics and the Life Sciences, The Hasting Institute

Rachels J. (2003) *Elements of Moral Philosophy* 4th ed, New York: McGraw-Hill Company.

Randall C. B. (1999) "The Executive's Conscience" Reprinted by Donaldson and

- Werhane , Englewood Cliffs, N.J. Prentice-hall, Inc
- Rawls, J. (1955) “Two Concept of Rules, *Philosophical Review*, 64
- Rawls, J. (1958) “Justice as Fairness” *Philosophical Review*, 67
- Rawls J., (1971a) “Justice As Reciprocity” in Gorovitz S., (ed) *John Stuart Mill Utilitarianism*, New York: Bobbs- Merrill
- Rawls, J. (1971b) *A Theory of Justice* Cambridge: Harvard University Press
- Rawls J. (1977) “The Basic Structure As subject” *American Philosophical Quarterly*, 14
- Sandel M. (1982) *Liberalism and the Limits of Justice*, New York: New York University
- Sarbanes-Oxley Act of 2002*, US Congress, Title I, 101(c)(1), Title VIII, and Title IX, 406
- Sanusi J.O. (2003) “Embracing Good Corporate Practices in Nigeria”. Paper Presented at the 2003 Directors’ Seminar Organised by Financial Institute Training Center, Nigeria on 17-19 June, 2003
- Savitz, Andrew, Weber K., (2006) *The Triple Bottom Line*. San Francisco: Jossey-Bass
- Shivani, (2008) IBM prepares employees for global leadership, <http://in.rediff.com/money/2008/apr/02ibm.htm>. retrieved April 24, 2007
- Simon H. A. (1965) *Administrative Behaviour*, 2nd edition. New York: Free Press
- Singer A. (2015) “There Is No Rawlsian Theory of Corporate Governance”. *Business Ethics quarterly*, CJO 2015 doi:10.1017/beq.2015.1. Retrieved June 11, 2015

Stevens,C.(2010) “Time For A New Humane Capitalism ...Or Else”. A blog on

<http://www.huffingtonpost.com/social> Retrieved in February 2011

Strasnick S. (1979), “A Review of Wolff Robert Paul’s Understanding Rawls: A Critique of A Theory of Justice” in *The Journal of Philosophy*, Vol. LXXVI No. 9

Sun W., (2013) “Theory of Corporate Governance Emergence”. Encyclopaedia of Corporate Social Responsibility
<http://www/encyclopediaofcorporatesocialresponsibility> Retrieved 11/0215

Tampio N., (2007) *Rawls and the Kantian Ethos*. Polity vol.39, No. 1 North-eastern Political Association, January 2007

Thomas C. (ed) (2004) *Theories of Corporate Governance. The Philosophical Foundation of Corporate Governance*. London: Routledge

The Editors (1981) “Politics and Government” in *Readers Digest Library of Modern Knowledge* 3rd ed, London: Readers Digest Association limited.

Unah J. (2002) *On Being: Discourses on the Ontology of Man*, Lagos: Fadec Publishers

Unah J. (2008) “The Obligatory Theory Of Corporate Social Responsibility: A Discourse On Business Ethics”, Proceedings Of The XXII World Congress Of Philosophy, 2008, Vol.7 Business Ethics

Velasquez M.G. (2002) *Business Ethics: concepts and Cases, 5th Edition*. New Delhi: Prentice –Hall of India Private Limited

Weiss, J. W. (2009). *Business Ethics: A Stakeholder & Issues Management Approach*

- 5th Edition*, Mason: South-Western Cengage Learning.
- Wenar L. (2008) “John Rawls” *Stanford Encyclopaedia of Philosophy*, *First published Tue Mar 25, 2008, retrieved 18th April 2010*
- Whitehead K. (1977) *Business and Management Studies: Industrial Relations*, Kent: Hodder & Stoughton Ltd
- Williams T. D. (2005) “Personalism” in the *Stanford Encyclopedia of Philosophy* retrieved 7/4/13
- Wilson, I. (2006) “Regulatory and Institutional Challenges of Corporate Governance in Nigeria Post Banking Consolidation”. *Nigerian Economic Summit Group Economic Indicators*, 12(2): 1-10.
- Wittgenstein L. (1953) *Philosophical Investigations*. New York: Macmillan Company
- Wolff J. (2006) “Libertarianism, Utility, and Economic competition” in *1606 Virginia Law Review* [Vol. 92:1605 in [http:// www.virginialawreview.org/content/pdfs/92/1605.pdf](http://www.virginialawreview.org/content/pdfs/92/1605.pdf). Retrieved on the 15th of July, 2010
- Wolff R. P. (1966), “A Refutation of Rawls Theorem” in Journal of Philosophy No. 63*
- Wolff R. P. (1977), Understanding Rawls: A Critique of A Theory of Justice, New Jersey: University Press*
- Wolff R. P. (1995) *About Philosophy* 6th edition, New Jersey: Prentice-Hall Inc
- Wood A. (ed) (2001) *Basic Writings of Kant*, New York: The Modern Library.

