

CONCLUSIONS

The privatization of state-run pension schemes should not be seen as a modification or renewal of some ancient social policy. Even though it seems like a much needed and anticipated reform for pension programs, it is critical to understand that this reform entails a change of the philosophical guidelines that underpin social policy. State-run PAYG pension programs had followed the precepts of Rawlsian liberalism, requiring social cooperation to identify the least advantaged by economic income and natural endowments, and therefore benefit these individuals in the least advantaged position. Responsibility lies on the individual, and also on the collective. It is a responsibility-sharing system. On the other hand, pension privatization as *Individual Accounts* finds its guidelines/roots, in Nozickean libertarianism.¹ The new program requires the cancellation of social cooperation by which the least advantaged were identified and benefited. The least advantaged continue to be disadvantaged; the difference lies in that they are no longer a morally relevant group subject for aid or benefit through redistributive mechanisms. Individuals are, therefore, considered the first and last source of responsibility.

The arguments of the two theories were presented in the first chapter. I argued that Nozickean libertarianism is a theory that relies on individual responsibility and on the universal right of self-ownership. The problem with Nozick's understanding of self-ownership is that it is too limited, and does not yield self-determination. Therefore, the theory allows levels of slavery, where only some advantaged or lucky individuals will be able to have self-determination, meanwhile, others will be slaved to their unfortunate circumstances. Rawlsian liberalism, on the other hand, is a much more inclusive theory. Its main objective is to avoid selectiveness, on the basis of natural and social contingencies, that are no fault of the individual. Rawls' principles of justice try to render every individual as morally and politically equal, by awarding members of

¹ Norman Daniels, *Am I My Parents' Keeper? An Essay On Justice Between the Young and the Old* (New York: Oxford University Press, 1988), 37.

society, independent of their capacities and of their social circumstance, an opportunity to pursue their life-plans.

After this theoretical debate, it became clear that Rawlsian liberalism was a more adequate theory to be considered as a guideline for social policy, since it does make the difference between morally irrelevant and relevant features of individuals, and awards them the required importance within the theory, making it universal and not selective. Nevertheless, this conclusion does not entail that Rawlsian social justice was free of faults. Rawls did not provide a precise definition of the least advantaged, therefore not allowing the second principle to reach its main redistributive objectives. In the extension of the second chapter, I argued that Rawls did not include the elderly in the least advantaged group, because of his intention to create a general theory that did not pause with particular cases. However, his inclusion of natural talents as a part of primary goods left a window of opportunity to start a theoretical analysis to identify the least advantaged. After integrating Daniels' perspective of a life-span, it became clear that the problem with Rawls was that he left aside the natural development of a life, where an individual is born, her natural talents peak during her productive years, and after some time, those natural talents start to decrease due to the arrival of old-age. This fact of life was left aside by Rawls, but certain elements of his theory such as natural endowments,² and the mention of the life course,³ allowed me to put them together and reach the conclusion that the elderly could be considered a part of the least advantaged group subject to the Second Principle of Justice.

This conclusion has an important impact due to the gaining importance of the elderly in the world. If the elderly are growing more numerous than the younger population, should society continue to redistribute to them, leaving the young at an uncertain position? This question has been the center of the intergenerational justice debate, where the elderly have been considered an

² John Rawls, "A Kantian Conception of Equality," *The Independent, A Journal of Ideas from Princeton* ([cited 20 April 2009]): available from <http://princetonindependent.com/issue01.03/item10c.html>

³ Rawls, "A Kantian Conception of Equality."

important group, but not more so than the young. Norman Daniels and his Prudential Life-Time Account, do just that. They render age groups as equals, and even though they are equal and their conceptions of the good should be considered equal under a Rawlsian understanding, the difference between them, result of their advantages and disadvantages, has to be made. Following the conclusions of the first part of the second chapter, the elderly are in a least advantaged position. As I mentioned in the second chapter, this does not mean that the elderly have to get everything, while leaving the young in a disadvantaged position. The Second Principle of Justice does not impose this difficult result. It advances all the conceptions of the good, and in this case, those of the young and those of the old, as much as it is possible, without relieving the elderly of their moral relevance as a disadvantaged group. The general point, at the end of the second chapter, was that even though current demographic and fiscal shocks have made redistributive mechanisms to the elderly problematic, a responsibility-sharing system provides a solution where both age groups share the problem, and the elderly are not stripped of their importance. Keeping this in mind, I can contribute to the intergenerational justice debate, to avoid solutions that would render the elderly into a position of risk and uncertainty, like in the case of pension privatization.

The pillars that structure the program designed to counter the fiscal dilemmas of state-run PAYG schemes, find their philosophical roots in Nozickean libertarianism, and further considerably from the Rawlsian understanding of social justice, as presented in the third chapter. If Nozickean libertarianism is limited in the understanding of critical concepts, as concluded in the first chapter, then the possibilities of such flaws overlapping into the results of Individual Accounts are great. Furthermore, a detrimental consequence of such an individualized program is the promotion of radical individualism. The effects of radical individualism are not the promotion of a socially just system; they are the expansion of even greater economic and social gaps within society. Individual Accounts institutionalizes, and therefore, justifies these kinds of results.

Seen from this perspective, Individual Accounts is not an attractive solution to replace state-run PAYG systems. Nevertheless, the theoretical analysis presented in this dissertation was not a considered background of debate for the countries that have made the reform. In the case of North America, Mexico did not undergo a concise scrutiny of Individual Accounts from an economic and philosophical perspective, and therefore, could not comprehend the negative social effects of the reform. The fourth and final chapter presented the international and national pressures that forced the Mexican government into implementing the reform; none of which established a theoretical debate of social justice of the program, or the social consequences of the reform that could be identified by an analysis of Rawlsian liberalism and Nozickean libertarianism, in a general. Due to this clear (dis)regard of social justice, the projected results of Individual Accounts in the Mexican case are not promising. This particular case, as well as that of Canada (who opted out of the reform), are cases that the United States needs to take into consideration now, before the decision to reform the system is made. The United States government is at a crossroads, where a concise understanding of Rawlsian social justice, in addition to the lessons of its North American partners, might contribute greatly to the final decision.

From Theory to Practice

The path from theory to practice is not long as some might think. It is only a short road that connects the values promoted by a theory, to policies that provide the actual rights to enhance those values. In the particular case of the United States, during the years of the Civil War, President Lincoln hailed the equality of men and the moral values that deny chattel slavery. The practical side to these values was the eventual freedom of the slaves. Years later, Martin Luther King promoted equality between african-americans and the white population. At the same time, feminism demanded gender equality. The eventual practical policies that followed were integration of schools and public places, and laws prohibiting gender discrimination. These

policies were considered the provision of basic rights promoted by certain ideologies. Rawlsian liberalism is the theoretical establishment and justification of these ideologies; where the basic right of individuality is provided and individuals are capable to pursue their conceptions of the good, without sectors that discriminate on the basis of morally irrelevant characteristics, as being born a woman or african-american.

Even though the connection between Rawlsian liberalism and state-run pension programs required a longer theoretical analysis, it was possible to establish the relationship which proved useful on two main fronts: as a theoretical level of analysis to determine whether a policy (in this case pension privatization) complies with social justice; and as a theoretical groundwork for further study and for policy design to correct present injustices.

In the first case, pension privatization can be understood as a policy that no longer embodies the values of Rawlsian liberalism, it contradicts them based on its Nozickian foundations. This entails the cancelation of the basic Rawlsian right to an opportunity to follow one's conception of the good, and the eventual subjection of some individuals to a Nozickian-Styled slavery, where their involuntary features determine their eventual fate. In the hypothetical case of John (entrepreneur) and Peter (John's manufacturing employee), presented in the first chapter, the fate of Peter will be his enslavement as an employee with low wages, which are not sufficient to save for his retirement. Peter's retirement will be postponed or it will never arrive. Furthermore, as he labored as a manufacturing worker, his abilities might not be at their peak when he reaches old age, and therefore John might not find him useful any more. Peter will have to look for even worse payed jobs to sustain himself through his old age, whereas John will retire successfully and enjoy a comfortable living of his final years. In reality, this translates to a number of individuals, namely the least advantaged, who will no longer have the economic possibilities to follow their life plans and eventually retire. The case of John and Peter will no

longer be hypothetical, as it will be reproduced in real life due to the detrimental effects of pension privatization on social justice issues.

The extensive theoretical analysis I presented here need not be limited to pension programs. It provides a background to understand the moral implications of other policies, as well as their translation into practice. In the particular case of pension schemes, in a moment of fiscal urgency, decisions are being made without consulting theoretical guidelines that might predict in some way the possible outcomes of reforms. In this sense, Rawlsian liberalism and the elements that conform the theory can predict the unfavorable results of Individual Accounts for social justice purposes. These detrimental moral results can, afterwards, be translated into practice. The predictions awarded by the Rawlsian analysis do not change apparently in practice, as can be perceived by the projected results of pension privatization in the case of Mexico.

Furthermore, the effects of pension privatization on social justice are not limited to the elderly. As was seen in the Mexican case, women are a group that will be affected considerably due to the roles of motherhood and increased longevity. Gender is a morally irrelevant feature that cannot be a basis for difference; women cannot be affected because of their gender. A policy that subjects women to vulnerability because of their gender would be a basis for urgent policy reform under a Rawlsian understanding of social justice. However, pension privatization is Nozickean-founded; this detrimental effect is not considered a source of reform, but a mere result of self-ownership and market forces that does not necessarily warrant state action.

To this Rawlsian theoretical analysis and to the warnings it provides, some might argue that pension privatization (dis)regards social justice because it is not a policy created to correct social injustices, but to correct and avoid future financial crisis. Nevertheless, at least in the case of Mexico, it is a program that is meant to be permanent and therefore requires these social justice assessments. The policy itself might resolve the economic problems in the short term, but in the long run it might be the source of continuous and permanent injustices.

Furthermore, the adaptation of Rawlsian social justice presented in this thesis is not only useful to analyze established policies and their social implications. It should also be considered the groundwork for future design of social policy. The precise specification of the “least advantaged” definition provides the basis for future study of the different disadvantaged positions in society, which might not be regarded as disadvantaged, and therefore might be unintentionally excluded. The work I presented here can be a step towards correcting current injustices. However, I warned at the beginning of this dissertation that these analysis must be done in a responsible manner, where the fulfillment of particular interests is not the objective, but the greater purpose of furthering Rawls’ primary aim of social justice: to acknowledge individuality through the provision of the basic right to an opportunity to pursue individual conceptions of the good. This greater purpose is the theoretical groundwork under which policy for children, the elderly, women, and the handicapped, among others, should be reformed or designed.

Nevertheless, it is important to note that the benefits provided by a theoretical analysis cannot always provide a definite solution to certain particular circumstances. In the case of the financial crisis of pensions, the theoretical analysis I presented in the thesis shed light on the poor consideration of social justice on the part of pension privatization, and the effects this would have on society. At the same time, I awarded a theoretical groundwork to identify the elderly as part of the least advantaged. However, I did not advance a delineated social policy that primarily promotes social justice and, at the same time, counteracts Individual Accounts and the financial crisis of pensions. The policy would have to match the needs of social justice as those of financial urgencies.

If unfortunately there are no new sound policies that might pursue objectives of social justice along with those of solving the economic crisis of pension programs, the countries in the North American region, particularly the United States, face a difficult decision: to privatize and resolve the financial crisis brought about by pension programs risking, at the same time, the

permanent institutionalization of social injustice; or to pause and debate other possibilities that might not resolve the fiscal crisis entirely, but might avoid the permanency of injustice.

The Principles of Sustainable Justice: Can Theory Provide a Middle ground?

The decision to select one of these two paths is certainly difficult for states. Nevertheless, there is one critical point that I have not mentioned yet, and that might provide insight to answer the problematic question that states, like the United States, face due to the fiscal crisis of pensions.

In his theory of justice, Rawls was also concerned with justice between generations.⁴ His concern led him to propose the Just Savings Principle as a proper guideline to determine the fair level of savings of present cohorts, for the benefit of future generations.⁵ The Just Savings Principle suggests that current cohorts have the obligation to sustain levels of development of institutions, culture, education, technology, the environment, and also capital savings for the generations to come. It is not fair to consume and destroy the development achieved by present cohorts leaving nothing for future generations. The continued preservation of social justice institutions as well as other levels of development through generations was identified by Tony Fitzpatrick as *Sustainable Justice*.⁶ Fitzpatrick draws from Rawlsian justice and goes further creating two rules that allow the sustainability of justice. Even though, these rules were awarded as a guideline for difficult environmental/poverty reduction decisions that often contradict one another, I describe them here as a possible guideline that not only gives social justice the critical relevance it deserves, but also considers the important implications of the fiscal crisis.

⁴ It is important to remember that generations refer to individuals that have not yet been born, as explained in the second chapter.

⁵ John Rawls, *A Theory of Justice* (Cambridge, Massachusetts: Harvard University Press, 1971), 285.

⁶ See Tony Fitzpatrick, "Making Welfare for Future Generations," *Social Policy and Administration* 35, no. 5 (December 2001).

The first rule is the *Non-Futility Rule* that reads, “[p]rinciple *x* should not be allowed to trump principle *y* when, under particular circumstances, doing so would be self-defeating.”⁷ Following this rule would entail making some principle the priority, be it social justice or economic efficiency. The second rule, the *Deferred Enhancement Rule*, is complemented by the first, “[p]rinciple *x* is temporarily allowed to trump principle *y* when, under particular circumstances, doing so allows the objectives of principle *y* to be met more efficiently in the medium term than would otherwise be the case.”⁸ In this sense, whatever the priority is, must trump the other principle, but only until the first rule applies. That is, as a temporary solution.

Following Fitzpatrick’s application of these rules, it would be necessary to award priority to social justice or to pension reform. In the present case of the fiscal crisis of pension programs, it would be possible to argue that fiscal health is more important, and therefore economic efficiency should overcome matters of social justice under these particular circumstances. If this is the case, then the second rule would read:

“[principles of economic efficiency and pension privatization are] temporarily allowed to trump [principles of social justice] when, under particular circumstances [such as the present financial crisis derived of pension schemes], doing so allows the objectives of [principles of justice] to be met more efficiently in the medium term that would otherwise be the case.”⁹

This rule is allowing economic efficiency considerations to trump the objectives of Rawlsian social justice, but only if social justice will be better served in the medium term. In this sense, pension privatization might be a solution to the financial crisis of pension programs, but it should only be considered as an option if it solves the financial crisis and eventually allows social justice to be better achieved. However, this does not entail pension privatization as a permanent policy that trumps social justice. Hence the first rule was created by Fitzpatrick to avoid decisions

⁷ Fitzpatrick, “Making Welfare for Future Generations,” 509.

⁸ Fitzpatrick, “Making Welfare for Future Generations,” 510.

⁹ Fitzpatrick, “Making Welfare for Future Generations,” 510.

that only award importance to one side of the coin. If further economic efficiency considerations without the appropriate level of social justice is self-defeating, then the first rule applies, where “[principles of economic efficiency] should not be allowed to trump [principles of justice] when, under particular circumstances [as the permanent institutionalization of social injustices], doing so would be self-defeating.”¹⁰

If these two rules are followed as presented here then the option of privatizing pension schemes might be viable, but only as a temporary solution. Pension privatization does not promote social justice, either as an objective or as a consequence. If economic research determines that the financial crisis is no longer sustainable, then pension privatization might be brought in as a solution that allows the further existence of pension programs. Nevertheless, as it is a program that does not promote social justice, it has to be replaced by the old scheme or by another policy of which the primary objective is social justice, after the financial crisis is solved. Otherwise, the institutionalization of injustice will become a reality in current societies, the effects of which will overlap to future generations. The Just Savings Principle will not be followed if current governments decide to permanently implement pension privatization, since social institutions that provide social justice will be affected, our savings for future generations will be comprised by the institutionalization of social injustice.

Even though this is not the primary focus of my dissertation and I mention it here as a source of further research, it is clear that these rules have to be taken seriously. If the United States or Canada decides to follow them, governments have to commit to the preservation of social justice as the primary objective. Even though, the negative effects of pension privatization can be limited by the creation or permanence of welfare policies which are not Nozickian-founded, like the ones already in existence in North America. The trend towards unregulated free-markets does not guarantee further creation of these programs. For example, the North

¹⁰ Fitzpatrick, “Making Welfare for Future Generations,” 509.

American Free Trade Agreement (NAFTA) has been characterized as a retractor of state powers. Several chapters within the agreement can limit the three partners to design and implement new welfare policies, even if states like Canada reserved its powers to continue providing public services for its members of society.¹¹ Fortunately for Canada, its welfare policies are extensive and were implemented before NAFTA. In the case of Mexico, the only country that decided to reform its pension program, welfare policies are not extensive. Under NAFTA, Mexico is now under extreme international pressures that will not necessarily allow the extension of social provision. The United States, however, is at a crossroads. Their welfare state is not as extensive as the Canadian, but it is definitely greater than the Mexican. Under these NAFTA pressures, the United States government is at no place to make uninformed or irresponsible decisions.

Under these circumstances, the three countries of the North American region have to pause and debate the future of social policy with an appropriate theoretical background that might shed light on the social implications of determined policy decision. If policy alternatives are not found, the rules created by Fitzpatrick might provide a basis to solve financial problems, but always keeping in mind the paramount importance of social justice.

¹¹ Stephen McBride, "Quiet Constitutionalism in Canada: The International Political Economy of Domestic Institutional Change," *Canadian Journal of Political Science* 36, no. 2 (June 2003): 263.