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## Political Perspectives of Charities: Social Democratic and a Liberal Concept

Throughout this essay, I will be examining if charity law is a communitarian concept. I will be able to analyse and critique two political perspectives of charities, communitarianism which is the social democratic concept and a liberal concept. This essay will ultimately conclude that charity law is a communitarian concept.

Communitarianism mainly focuses on the ideal critique of political liberalism and the idea which organizations seek to help and provide a circle of a group of people who can work together providing something positive which will benefit the public, Section 4 Charity Act 2011 not to be presumed for a purpose. The communitarian spirit is not mainly about sympathy or benevolence the Idea which it works around religious organization such as churches, independent school such as universities shows that they are willing to get and give a service which they are not profiting from but supporting the wider aspect of a community. The accountability and obligation gives a tough-minded spin to the concepts of community and responsibility. This merely brings a bond through social groups which a political society should look like.

Organizations cannot be profited although they can make a surplus that can be invested into things to help and make a change for the better good i.e. Schools and Universities which would fulfil a 'public benefit'. The main purpose of charity law is getting funds which they can provide so that they can give their money away in order help others. Charity is a charitable trust. As there are many people and companies still setting up trusts they are either still trying to gain profits however they don't go as well as they expect due to the critique that they get because gaining funds from people or and doing nothing positive with it causes a backlash therefore there is a tendency to set up a charitable company although many that currently exists are very historic and will always keep funding themselves. Re Segelman states that if someone was to dies and therefore sets up a trust their relatives, however the courts held that it could be public as people could be born into the family. In Commissioner of Income Tax v Pemsel, Lord McNaughten gave summary on charity; "Charity In legal terms are 4 principals, relief of poverty, advancement on trust and religion and beneficial to the community". The main point is for a trust to be charitable which has the spirit and intendment of the Preamble of 1601 and it isn't sufficient just that a reason for existing is advantageous to the network; it must be one which is helpful and which the law sees as a benefit. While considering Pemsel because only one out of every trust gives an advantage will be charitable regardless.

In the case of *Isc v Charity Commmison* "It was held that educating children whose parents could afford the fees would indeed exclude the poor, and in turn the private school would not be a charity" the court noticed that private school's poor make grants, bursaries, and opening up offices to the more extensive community for people to gain a public benefit so it was held that gave this arrangement to the poor was more of a benefit as private schools as they wouldn't have to exclude the left out. This shows that this is more a democratic left as they are fulfilling their public benefits in every way possible. Frances Ryans - "Private school don't act like charities, so let's strip them of benefits" her approach is extreme she talks about constraining markets and engaging in redistributive efforts for the benefit of the lower classes to establish a more equitable society, opposed to neoliberalism of creating an artificial market. Her statement

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“damage the state education” here is opposed to independent schools as charitable educational organisations, as she believes that the state should be in control of the distribution of money and that she believes that the state should deliver things to the people. Furthermore, believes that the money should be taxed in the collective interest, no room for liberalism. Richard Titmuss’ defends the framework of the state providing welfare saying that although were in this position there is still space for charity.

At the same its questioned whether If charity is a relative standard, if you own a private jet and loose a private jet- get another one as used to it Re Coulthurst. Tocqueville, who went over to the USA to write about the prison system, what he did when he was there was a survey of this new culture which had emerged and he was associating this to, France which he sees as old. He sees America as a society of communities. Local democracy come together Robert Putnam, Idea of a honey cone, is to bring a group of mixed people together. Having a happy society with people constantly helping each other. However, there is not really a honey structure doesn’t really exist.

In Dominion Student Hall Trust v Attorney General [1947] an organisation which was where a student organisation for children of the British empire who were majority white trying to build world around his own image. Due to private prejudice, it created private problems and issues, issues on the fact that racism is involved which can be another cause of conflict. By 1947 it was said to be objectionable and that it should be a mixed hall this would stop any sort of segregation. This would be ‘positive discrimination’ although there shouldn’t be any sort of discrimination however, when it does take place in the eyes of education i.e. school and universities for example, the ones who are being discriminated receive a benefit of lower entry requirements whether that could be for getting into the educational system or exams which they undergo but also receive finical support.

This to me shows there is a public benefit in a society which sees things happening which shouldn’t and that the law is moving more to the political left by benefiting society. It would be questioned whether this is ‘fair’ and ‘equal’. Joanna Southcote; thought she was going to be giving birth to a massacre baby, she had a phantom pregnancy which she had set religion around therefore was questioning herself. Singhs views was that just because something is religious it automatically is for the public benefit . Religion and education are the same thing. Court held that her being religious and following her faith was a public benefit, this still could be contradicted whether this is fair or equal.

Political liberalism focuses on the individual rights and strongly support the law which is very much about individual’s rights and empowering individuals to do what they want. This concept creates a completely different perspective on charities in law to the communitarian perspective. The liberal perspective may be attractive due to involving donors being attracted to social complications they personally care about and they give their chosen charity money rather than the state using tax money to do this. This removes the attitude of the state giving funds to charities who benefit the public. This would cause charities to rely on people having more wealth and to volunteer to donate to charities.

In my opinion, the political basis of the Charities Act 2011 is both liberal and communitarian. On one hand, it is liberal as it is supporting of the view of each individual parent that should have the liberty to choose where they want their child to be educated in a private or state school. The fact that the government supports 2 educational structures, both private and public, shows that

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they know modern day people have different social values and individually have the right to make decisions. However, it can also be communitarianism as it is based on looking after the welfare of the collective rather than the individual. Public benefit in section 2 means providing for a large group of people, the 'public', is a communitarian idea as the purpose of charity is to satisfy the public rather than individuals. Furthermore, the fundamental attitude of Charities allows people to come together forming communities of support.

If the law was to be reformed the focus would have to be on the bursaries and targets, as the arguments being that the wealth of private schools is mixed, and not all private schools would be able to provide them. The Independent school's council would be required a judicial review of the guidelines' and interpretation of the law. That trustees of private schools must pursue activities to do this in a way that promoted unrestricted public benefit. While the Charity Commissions retains the power to tell private schools that their activities do not meet the public benefit. The deliberations around the Charities Acts have brought together the themes of fairness, charitable status and public benefit and set the direction for future policy.

However, the problems with reforming the law If laws somehow managed to end up progressively restrictive on the tuition-based school part, it would ruin the relationship between the state and the independent schools. if the public benefits were to be increased numerous schools may quit and return to free organizations with no beneficent status, causing more of segregation among state and independent schools. If they did lose their 'charitable status' it would to many pupils being forced to leave private education as many parents would be priced out as of increased school fees as there is no rule on 'non-profit' in a business. They would also have to increase fees to cover the VAT increase, as oppose to paying no VAT now, which would also lead to greater segregation and inequality within state schools.

Owen Jones, argues that the independent schools are creating a class people which they have an advantage over other certain individuals; and from the left-wing perspective this is not fair. Independent schools should be taxed because they are a business and however because they are charities they don't not charge VAT on there fees making them a lot successful. Micheal Groves has slammed on the independent schools as they are using their charitable status to avoid the taxes. Mr Gove criticises the current system for still considering the education of the children of "plutocrats and oligarchs" to be a charitable activity. He argues that removing the tax advantages of private schools would boost standards in the state sector and raise vital extra funds. It's also said that private schools are a threat because they "failed to help benefit the state school".

Rawls introduced justice as 'fairness' to demonstrate that the general society it creates can persist inconclusively after some time. Moreover, Rawls says that the general society created by the principles is compatible with anyone' great and can build up the importance to these standards. Society faithfulness to justice is stable is expected to tolerate it over time.

Liberalism is purely a European product, in which the political views are subjected to types of analysis. It's more a of a 'absolute' alternative to other ideologies. If it is found to be more historical can the context bound the relevance within todays modern society. Robert Nozick "imagine a world with no state". You have the extreme liberal idea where a state is problematized by everything the individuals do and should do to protect themselves because if they don't they see something which could affect them in the future not necessary in a good or bad way. The liberal's view to be sure that the pressure comes from the communitarians, the

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liberals, for example, Keynes and Hobhouse, just as the liberals are looking for any communist option after the Second World War, that the British Welfare State appeared. The liberal's views on independent schools are that parents would want their children to be going to independent schools, due to the fact there's a lot more 'individual freedom' therefore would benefit them.

Fairness' as to the idea of justice that John Rawls displays the theory of 'fairness' concerns society's fundamental structure which is "society's main political, constitutional, social, and economic institutions and how they fit together to form a unified scheme of social cooperation over time".

Rawls builds the idea of justice as a narrow structure and indisputably states, "Justice as fairness is not a complete contract theory." Its main demonstration is how we should dispense an agreeable surplus to people in the public society. Accordingly, 'fairness' depends on two certain presumptions that the social orders being referred to social collaboration which can work further with everybody's common advantage as there exists a moderate overflow of accessible surplus to be given. Fairness can't be operated to decide how individuals in the society when it's hard. Although, it won't enable us to distinguish social arrangements where the conditions for example, cultural barriers have been disposed of due to the social adjustments.

Rawls calls the 'original position,' these individuals will presumably direct standards of justice. The equal principal, that 'each person is to have an equal right to the most extensive scheme of basic liberties compatible with a similar scheme of liberties for others'. His essential principles that they would be picked as utilitarianism as he would think about the most grounded restriction on justice and fairness. The veil of ignorance, in the first position as commonly impartial balances, attempt to consent to the standards which achieve the best situation for society. As most part of the social job they will endeavor to augment their individual offers of essential products. These products are characterized as "things that every rational man is presumed to want" which is all incorporated in addition to other things such as freedoms, rights and opportunities in society.

In conclusion from a liberal perspective on religion and education I believe that any individual can go to any place of worship such as church and any individual dependant on their financial status are able to go to whichever they feel comfortable either independent school or state school. However, from a communitarian perspective, working together in group and being surrounded by small society for a public benefit but also a benefit for yourself. Being in a happy society with a good group of people is a lot more beneficial as Putnam said although you could also reject that idea because having too many groups within society could cause harm and conflict between groups. Although from a left-perspective there is too much of a concern with the collective on taxing schools and churches which both are fulfilling a public benefit, however, I don't believe their existence affects the charitable status of each these, therefore believe that they should retain their charitable status.