



CHETANA
International Journal of Education
Peer Reviewed/Refereed Journal

(ISSN: 2455-8729 (E) / 2231-3613 (P))

Impact Factor
SJIF 2022 = 6.261



Prof. A.P. Sharma
Founder Editor, CIJE
(25.12.1932 - 09.01.2019)

Article

Received on 07.04.2022

Reviewed on 08.04.2022

Accepted on 15.04.2022

Justice: A Long Journey from Plato to Amartya Sen

* Dr. Bishnu Satapathy

** Dr. Alka Mudgal

Keywords *different perspectives, communitarian and feminist critiques etc.*

Abstract

The present article deals with the concept of justice as it has evolved through different perspectives over the years. Before approaching the subject in contemporary times the article, in its introductory section, opens up with a discussion of the concept as it has been dealt with by the eminent Greek Philosophers- Plato and Aristotle. The idea is to provide the readers with a thorough picture of how far we have travelled in the journey of its evolution from the earliest times. This section is followed by a discussion of the views of contemporary scholars on the subject such as John Rawls, Robert Nozick and F.A. Hayek. In the next section there is a discussion on Amartya Sen's views on the topic followed by the concluding section where the article undertakes a discussion on end-state theories vs. process based theories of justice. The central objective of the present article is to provide the readers with a comprehensive understanding of the concept of justice in contemporary times. The present article, the authors feel, would set the proper backdrop for future discussions on communitarian and feminist critiques on the subject.

Introduction:

One of the earliest accounts of justice is found in Plato's *The Republic*. The central question of this work was the meaning of justice. Here Plato seeks to establish the "true nature of justice". Then he moves on to construct an ideal state which would be an embodiment of

his understanding of justice. An ideal state, according to Plato, possessed four cardinal virtues namely temperance or self control, wisdom, courage, and justice. In the ideal state individual would be true to his/her nature, some men being philosophical and intellectual and others, soldiers, good workers or artisans and so on. In an ideal state each individual would fulfill the duty given to him/her diligently and meticulously. Thus, justice according to Plato referred to doing one's job for which one was naturally fitted and not interfering with other people.

In Aristotle's view justice lies in incorporating concerns of equality, proportionality, and maintenance of equilibrium in society. He identified two types of justice 1) Distributive Justice 2) Corrective Justice- Here Distributive justice deals with allocation of wealth and honour. It rests on the principle "treating equals equally and unequals unequally". Corrective justice aims to see that the proportionate equality so established by distributive justice is not disturbed.

Distributive justice dealing with the distribution of wealth, income and goods among the people has come under attack by many political theorists. They question the very basis of this distribution so as to ensure its fairness. Three criteria are mentioned here which are:-

Desert- The word desert, derived from the French word 'deserte', means to "Deserve". It refers to those actions, deeds or endeavors of individual based on which s/he receives award or punishment. In other words, rewards or punishment should be given to individual according to her/his action or deeds.

Merit- The criterion of merit implies that any action or deed of an individual would be measured by its usefulness or harm to society. For example, a person producing something that becomes useful for the society will receive rewards for his/her accomplishment.

Need- The criterion of need suggests that individuals differ in their capacities and needs. Since different people have different capacities and needs, the principle of justice requires that despite difference of capacities, the need of the people has to be fulfilled. But, distribution according to need is possible if there is abundance of resources/goods and services. This can be referred to as a hypothetical situation. Had there been abundance of resources then perhaps there would not have been any conflicts among individuals and consequently, the question of justice would not have arisen in the first place. In

contemporary society there is a huge population with all kinds of diversities consisting of rich, poor, able, disabled, mentally challenged, diseased, men, women, children, old, LGBT communities, etc. All these diverse people have different needs, which are required to be fulfilled by the state. But due to scarcity of resources the following queries arise:

- a) How just distribution should be made so that everybody's need is taken care of.
- b) What should be distributed to whom as different people have different needs.

The political theorists have come up with two options- one is procedural theory of justice which holds that there is necessity of a just procedure for allocation of social advantages. For example, if goods, services, opportunities, and benefits, power and honour etc are distributed by following a just procedure then its outcome will automatically be just. In other words, certain set of rules should be followed for just distribution. However, it sees individuals as autonomous and rational beings who make choices according to their needs and thus are responsible for the consequences of their deeds/actions (Robert Nozick: 1979).

The second option is Social Justice- social justice denotes organization of society based on equality and fairness. It aims at establishment of an equitable society. The concept of social justice calls for both social and economic equality. Advocates of social justice sometimes call for unequal or preferential treatment for the marginalized sections such as preferential treatment for SC/ST/OBC in India or blacks in the USA. In India, for example, the government has framed many preferential policies such as reserved seats in educational institutions and in public employment so as to uplift the conditions of such marginalized sections. Various justifications have been offered for such kinds of preferential treatment.

Firstly, it is argued that such treatment compensates the deprivations that these sections have suffered in the past. Secondly, it is argued that these policies are indispensable for achieving equality, so that the deprived sections can be brought on an equal footing with other sections of society. Thirdly, these sections have been socially oppressed and economically exploited for long resulting in a situation where they are now at the bottom in the social and economic ladder. Thus, to liberate them from the exploitative system and establish justice, state comes forward with preferential treatment or positive

discrimination. Through this positive discrimination they gain in every field whether social, economic or political power.

Positive discrimination has been criticized on the grounds that the unequal treatment leads to injustice to other people who do not belong to these groups but are equally exploited. Besides this, within the deprived section or groups benefits are cornered by sections among them who are relatively in a better position. Consequently, benefits do not reach the most oppressed. It is also argued that when the beneficiaries know that they have reached the position not due to their talents but due to some preferential treatment this could prove to be very damaging for their self-respect.

The theories of social justice are also criticized on three grounds which are: firstly, the demands for social justice lead to increase in the activities of the state. It is the state that decides who gets what and when. The officers recruited by the state develop vested interests which do not serve the ends of social justice. Secondly, there is curtailment of liberty of individual due to implementation of policies of social justice. Thirdly, sometimes, it is difficult to assess which are the basic needs that are required to be fulfilled.

Rawls' Theory of Justice

Rawls criticizes Utilitarianism while defending and developing a contractual liberal conception of justice. Rawls contractual approach provides a coherent, systematic, and powerful defense of a new kind of egalitarianism that preserves and extends individual liberty. Like Hobbes and Locke, Rawls also talks about pre social state of nature in which people would decide consensually on a set of principles to form the future society they would agree to live in while agreeing to form these principles they all seek to maximize satisfaction of their own interests such as rights, opportunity, income or wealth. In this original position, they will be under the 'veil of ignorance' which prevents them from knowing the full details of others' skills, preferences, status and the like. In this situation people would find themselves in a situation where everyone has 'particular wisdom and general ignorance'. So they would consensually agree on those principles of justice which would prove to be most beneficial to the people who are worst off. In Rawls' opinion the way to find out such principles of justice is to think about what principles would be chosen by people who do not know how they are going to be affected by them. He sets

out his theory by placing individuals, abstracted from their social and economic context, behind what he calls a “Veil of Ignorance”. People placed behind this veil are unaware of who they are, what are their talents, skills, interests, so on and so forth. Now the question is why Rawls places people behind a veil of ignorance? How depriving people of particular knowledge would lead to fairness? Well, for Rawls, justice should be understood as that which would emerge as the content of the hypothetical contract of agreement arrived at by people deprived of the kind of knowledge that would otherwise make the agreement unfair. To simplify the point further, if one does not know which piece of cake s/he will get then s/he is more likely to slice it fairly. Depriving people of particular knowledge means that they will choose fair principles, rather than allowing them to use this knowledge so as to make it biased in favour of their interest. Rawls believes that a society chosen on impartial grounds would be a just society and the concept of justice arrived at would be justice as fairness.

Thus, according to Rawls, everyone will choose a kind of society which minimizes his/her possible losses and make sure that even the worse off person is not so destitute in case s/he lands up there. As per Rawls’ argument, people would choose two principles of justice:

- 1) *Each person should have an equal right to the most extensive basic liberties (civic personal rights of a person) which are compatible with similar liberties of others;*
- 2) *Social and economic inequalities need to be arranged in such a manner that both are :*
 - a) *To the greatest benefit of the least advantaged and*
 - b) *Whereby positions and offices are open to all under conditions of fair equality of opportunity.*

According to Rawls, the first principle regarding basic liberties (principle 1) is supposed to have precedence over the second principle i.e (principle 2) in case of conflict between the two principles. Rawls also argues that in a situation of conflict within the second principle the part (b) is supposed to have precedence over part (a).

The first principle i.e “Each person to have an equal right to the most extensive basic liberties compatible with similar liberties of others” is called the principle of equal liberty. According to this principle, each member of a society is supposed to have an equal right to the most extensive scheme of equal basic liberties which are compatible with a similar system of

equal liberty for all. In the same manner, each member of society has an equal guarantee to as many different liberties—and as much of those liberties—as can be guaranteed to every member of society. The liberties, which Rawls discussed, include: political liberty (the right to vote and to be eligible for public office); freedom of speech and assembly; liberty of conscience and freedom of thought; freedom of the person along with the right to hold personal property; and freedom from arbitrary arrest and seizure (Rawls :1971). Unlike some libertarian interpretations of utilitarianism, Rawls did not advocate absolute or complete liberty which would allow members of society to have or to keep absolutely anything. He was opposed to the libertarian notion of absolute and complete liberty in an unrestrained manner which would virtually allow members of society to have something in an absolute manner.

The principle of equal liberty would be chosen because the parties to the original position would want to be free to pursue their major special interests whatever there might be. In the original position each person is ignorant of his or her special interests and so each would want to secure a maximum amount of freedom to be able to pursue those interests.

The second principle, popularly known as *difference principle*, requires that all economic inequalities should be arranged in such a way that they both should: a) benefit the least advantaged and b) be attached to offices and positions open to all members under conditions of fair equality of opportunity. Rawls does not mind those socio economic inequalities in society if they are arranged in such a manner that they assist the least advantaged members of society and that the inequalities are connected to positions, offices, or jobs that each member has an equal opportunity to attain. According to part (b) of the second principle, everyone should be given equal opportunity to qualify for the privileged position in society.

Rawls argues for a system of equal basic liberties like economic inequalities which are permitted by the difference principle within the second principle of justice so long as these maximize an index of primary goods enjoyed by the least advantaged members of the society. While all are equally free to exercise a set of liberties equally distributed, in real situation, all are not similarly empowered to make use of primary goods in the exercise of those liberties. Each may be equally free to speak one's mind but those who are materially in an advantageous position may have greater influence for their ideas than the disadvantaged. While citizens are equally free from certain constraints, they are not

equally able due to differences in wealth and power to utilize that freedom. In other words, the equal negative freedom guaranteed by the first principle of justice is juxtaposed to the unequal positive freedoms sanctioned by the second and the inequality of the latter undermines the equality of the former.

As per Rawls' own description his theory of justice is coming within the category of pure procedural justice. According to such a theory once certain principles of justice are unanimously accepted the distribution resulting from their application will be necessarily just. Rawls has vehemently criticized those theories of allocation which do not take into account the moral worth of the individual for the attainment of any predetermined goals. Rawls is critical of utilitarianism as the utilitarian principle does not take note of extreme hardships to any particular individual in its calculation of the greatest happiness of the greatest number.

C.B. Macpherson, in his work "Democratic Theory: Essays in Retrieval", argues that Rawls theory is graceful defense of liberal democratic capitalist welfare state. According to Macpherson, Rawls theory assumes that capitalist society is still a class-divided society where inequality of income will always be an essential requirement as it will act as an incentive to efficient production. Rawls argues that incentives would lead to more efficiency and generate greater material wealth which in turn would benefit everyone including the worst off in the society. Thus in a welfare state one class is still better-off than another. Rawls argues that nothing much could be gained by an attempt to rule out inequalities. But according to Macpherson such inequalities would adversely affect individual liberty and create inequality of power in the society.

Robert Nozick's Views on Justice

Robert Nozick, in his book, *Anarchy State and Utopia* (1974) puts forward his entitlement theory of justice which is highly individualistic. Individual is given prime importance in Nozick's theory and he criticized Rawls on the ground that his theory causes injustice to the better off when Rawls calls for redistribution of the property of better off by the state to the benefit of worse off. Nozick uses Lockean argument that we acquire entitlement by mixing our own labor with un-owned resources. As long as this acquisition does not worsen the situation of other people it is just according to Nozick. All inequalities

resulting from the use and free exchange of goods are just as long as the initial appropriation is just. Nozick suggested three principles to just distribution of holdings:

- a) Initial acquisition: It is the method whereby an individual comes to appropriate some previously unowned bits of the natural world. One may legitimately acquire land and resources on 'first come, first served' basis, as long as nobody is made worse off by their doing so. This is acquiring a holding in accordance with the principle of justice and one is entitled to that holding which is called justice in acquisition;
- b) Voluntary transfer: It applies to all property whether acquired through initial acquisition or by mixing one's labour with the natural world in a market situation. If a person uses others' labour and pays them as per market rates, one becomes owner of the product of their labour. However, this must be based on voluntary contract, without force or fraud; and
- c) Rectification: Rectification of injustice concerns with rectification of the unjust holding acquired or transferred by unjust way (Dudley Knowles: 2001). If no one is entitled to a holding except by (repeated) applications of (1) and (2), this is called Rectification of injustice (Nozick, 1974). This is the area where the state or the international community will be justified to intervene in order to restore justice.

According to Nozick justice is about respecting people's rights- their rights to property and their rights to self-ownership. In his opinion people must have the freedom to decide what they want to do with what they own. Each person is a separate entity and one's autonomy should always be respected. People are ends in themselves and should never be used as means to an end. Nozick is opposed to redistributive state as it uses some people as means to other people's ends.

FA Hayek's views

FA Hayek places liberty at a higher pedestal than any other political ideals like equality and justice. He emphasizes on individual liberty and believes that any coercive redistribution by the state beyond the meeting of common basic needs involves an unjustifiable interference with individual liberty. For him social justice is a mirage. In his book *The Road to Serfdom* (1944), Hayek is of the opinion that the state's ambition to realize

social justice implies a centralized authority making people do those things that they might not want to do, interfering with their freedom to do what they like with their resources. As long as the state is interfering with individual liberty through various ways like planning the economy, or redistributing resources in pursuit of particular distributive goals, it is invading individual freedom and also distorting market processes. In Hayek's opinion, if state is restricted from invading individual freedom, then, this would lead to benefit everybody (Adam Swift: 2006 pp19-20).

In his book *Law Legislation and Liberty: The Mirage Of Social Justice* (1976), Hayek is a skeptic concerning the value of social justice or distributive justice. To him the term social justice is "empty and meaningless", it is a mirage. Hayek maintains that society has only limited resources which are not enough to satisfy everybody's needs. If policy based on social justice is adopted, the bureaucracy would assume the power of arbitrary distribution of those resources. According to Hayek, this will destroy individual freedom.

Amartya Sen's views

In Sen's view, Rawls' framework concentrates only on the means to freedom rather than on the extent of freedom that a person actually has. His approach to justice is capacity-based. It is not merely related to providing access to primary goods but it also includes the degree/ level of capabilities that each individual has to convert these primary goods into lives that they value living and that would determine freedom and uphold justice.

In the opinion of Amartya Sen, everyone does not enjoy same amount of liberty despite access to same set of primary goods. There could be various reasons like physical limitations/ challenges that create restrictions on capabilities. For Sen, capability means a person's opportunity and ability to generate valuable outcomes. Sen further argues that equal distribution of primary goods cannot guarantee equality of freedom to pursue one's own objective. He emphasizes on interpersonal variation in people's ability to change resources into actual freedom. According to Sen, variations like age, sex, talent, skills, influence people's abilities in different ways, and thus with same primary resources they come out with different results.

Prof Sen argues that despite similar access to primary goals, the difference in the extent of capabilities to convert the same into freedom is more important. He further argues that

what matters most is not what resources one possesses or what one can make out of those resources but rather what one's resources and opportunities allow one to "do and be"- this is referred by Sen as "Capability to function". Depending on the particular needs of different persons different packages of resources are required to enable them to function to the same degree. In the opinion of Sen, functioning is an achieved "being or doing"- being healthy, having control over one's environment and so on whereas capability is referred to one's opportunity to achieve a functioning. He further mentions that government should be concerned with ensuring capabilities rather than functioning. In simple word, government should work towards enhancing the capabilities of individual so that they could utilize the resources available to them to the maximum and enjoy their liberty.(Amartya Sen: *Development as Freedom*: 1999, *Equality of what?* :1979)

Now the pertinent question that has been raised is "What capabilities should be enhanced"? Martha Nussbaum in her book presents a provisional list, which in her view has universal validity.

- 1) The capabilities to live a normal length of life to the end.
- 2) The capabilities of being able to have good health, including reproductive health, being able to adequate nourishment and proper shelter.
- 3) The capabilities to be able to move freely from one place to another place: to have security against assault, including sexual assault, child sexual abuse, and domestic violence and to have opportunities for sexual satisfaction and for choice in matters of reproduction.
- 4) The capabilities of being able to imagine, think, and reason and to do these things in an informed and cultivated way through proper education/ awareness campaign. The capability of being able to exercise freedom of expression, speech and religion.
- 5) The capabilities of being able to have emotional attachment to things and people outside ourselves and to love those who love and care for us.
- 6) The capabilities of being able to engage in critical reflection about the planning of one's life.

- 7) The capabilities of being able to live with others, to recognize and show concern for other human beings, to engage in various forms of social interaction. The Capabilities to live a life with self-respect, dignity and non-discrimination.
- 8) Capability of being able to live with concern for and in relation to animals, plants, and the world of nature.
- 9) The capabilities of being able to laugh, to play, to enjoy recreational activities.
- 10) The capabilities of being able to participate actively in political choices that govern one's life and to have real opportunities to hold property. To have the right to seek employment on an equal basis with others (McKinnon: p.267).

The capability view has been applied to development economics and has helped and enriched the debate on equality and social justice.

Amartya Sen, while arguing in favour of globalization, insists on some preconditions so as to make it just and beneficial for all nations (Amartya Sen: 2002). Prof Sen raises the question of justice. The real issue for him is the distribution of benefits accruing from globalization in a just and fair manner. In addition to the enabling conditions such as just distribution of physical resources, adequate development of human resources, prevailing of fair rules of business relations and existence of effective social-security arrangements, democratization of economic, social, and political institutions operating at the national and global levels is also called for owing to the critical dependence of the former on the latter. To sum up, the ethical and human concerns underlying many of the questions raised by the anti -globalization protesters need to be given a due consideration for serious reassessments of the adequacy of the national and global institutional arrangements that characterize the contemporary world and shape globalized economic and social relations.

End-state theories vs Process based theories

These theories suggest a set of principles to control the process of exchange between individuals. The end state theorists measure justice behind a given distribution by examining conditions at a given time. For example, an end state theorist would look at the distribution of resources in a society if s/he had to find out whether the resources were justly distributed in a given society. Apart from individual actions, end-state theories

attempt an evaluation of the society as a whole. Since end-state theories of justice can also be referred to as social justice theories there can be different types of end-state theories. Although Marx does not think of justice to be relevant at all in his communist society he has discussed the concept in a detailed manner in his 'Critique of the Gotha Programme'. His views here may well be considered to be an example of end-state theory of justice. On the other hand, Rawls' theory of justice is also another social justice theory from the liberal perspective which can also be categorized as an end-state theory of justice. So it would be in the fitness of things to briefly discuss about both the perspectives here. Marx discusses about two types of concepts, one for the transitional socialist society and the other for the communist society where, in his opinion, this concept would no longer be required. The principle in the transitional society would be: from each according to one's capacity and to each according to one's work. So one receives payment here in accordance to one's labour contribution to the social product. Marx's dissatisfaction with this contribution principle lies in its ignoring the fact that different workers vary in their talents as well as their needs. The contribution principle does not take into consideration the crucial factor of needs. On the contrary, in the communist society, the principle being from each according to one's ability and to each according to one's needs this deficiency has been well taken care of. It is expected that people would produce goods and services without the need for differential rewards and that they would be unaffected by what others get. But for the principle to be upheld material abundance is crucial where there would be no scarcity and conflicts between individuals. The fundamental difference between Marxist perspective and that of John Rawls is that for Marx only under circumstances of scarcity and conflicts over goals there would be a need for justice as a principle of operation of society whereas for Rawls justice is the first virtue of social institutions. Marxian view considers wage-labour in capitalism as unjust because it is both exploitative and alienating in character. It is so because its conditions are created by the existence of private property. Thus the abolition of private property is advocated so as to create a cooperative and harmonious community. Socialization of the production process is the means to achieve this objective. For Marx, pursuit of profits in a market-driven society can never be the basis for creating justice. There is a general trend among most of the end-state theories of justice to claim that certain ways of life constitute human perfection or excellence. The evident implication of this is that such ways of life should be

promoted and other ways of life penalized. Critics argue that such theories are potentially tyrannical in nature as they privilege one notion over others. Here, there is always a threat to people's liberty due to interference on the pretext of upholding the perfect and just way of life. This is where; Rawls' theory differs from the Marxian one as Rawls tries to steer clear of favouring any one notion of the good life.

On the other hand, process-based theories refer to those theories that suggest/ focus on process through which distribution would take place. The process-based theorist considers the procedure that is behind a given distribution by examining the process that led to that distribution. They believe that if process is just then the outcome of the process would be just. Now if a process-based theorist is asked whether the resources were justly distributed in a given society, he would look at the process by which the distribution has been arrived at. So it would not be wrong to consider Robert Nozick as a process-based theorist.

References

1. Bhargava, Rajeev and Acharya, Ashok (eds) (2008), *Political Theory: An Introduction* Pearson, Delhi
2. Gilligan Carol, *In a Different Voice* (1982), Cambridge, MA: Harvard university press
3. Hayek, F.A. (1944) *The Road to Serfdom*, University of Chicago Press
4. Knowles Dudley , *Political Philosophy*(2001), London, Routledge
5. Mukherjee Subrata and Ramaswamy Shusheela (2011), *A History of Political Thought: Plato to Marx* PHI, Learning Private Limited Delhi
6. Nozick, Robert (1974), *Anarchy, State and Utopia*, New York/ Oxford, Basic Books/ Blackwell
7. Nussbaum, Martha (2000), *Women and Human Development :The Capabilities Approach*, Cambridge University Press
8. Rawls, John (1971) *A Theory of Justice*, Oxford University Press; *Political Liberalism* (1996), New York, Columbia University; *The Laws of People with the Idea of Public Reason Revisited* (1999) , Cambridge, MA: Harvard University Press
9. Sandel, Michael J. (1998), *Liberalism and the Limits of Justice*, Cambridge University Press

10. Sen, Amartya (1999) *Development as Freedom*, New York, Alfred A. Knopf; *Equality of What? A Lecture by Amartya Sen* (1979)
11. Simon, Robert. L (ed) (2002), *The Blackwell Guide To Social and Political philosophy*, Blackwell publishers,USA
12. Swift, Adam (2006) *Political Philosophy: A Beginner's Guide for Students and Politicians* Polity Press, Cambridge, UK
13. Walzer, Michael (1983), *Spheres of Justice*, New York, Basic Books
14. Wolff, Jonathan (2008), "Social Justice" in Mckinnon, Catriona (ed) *Issues in Political Theory*, Oxford University Press, pp. 185-186

Corresponding Author

*** Dr. Alka Mudgal & Dr. Bishnu Satapathy**

Assistant Professor in Political Science,

Shivaji College (University of Delhi),

E-mail ID mudgalalka@yahoo.com, Mobile 9650767788