

Idea of Justice, Amartya Sen

Summary in 3 lines:

1. A theory of justice needs to be useful *in order to* judge how to reduce injustice.
2. Most theories of justice focus on what 'the perfectly just world' would look like, negating point #1. Need a comparative approach considering the lives people actually lead.
3. Justice requires impartiality, which requires a certain objectivity and rationality, especially *public* rationale, therefore need public discussion and democracy as 'government by discussion'.

There are many ways to rationalise justice, e.g. libertarian, economic egalitarian, utilitarian

- 3 children, 1 toy. Who gets it? The one who can play, the one who likes it the most, the one who doesn't have any other toys?

'We can have a strong sense of injustice on many different grounds, and yet not agree on one particular ground as being *the* dominant reason for the diagnosis of injustice'. Pg 2.

There are 2 basic approaches to philosophy of justice:

- **transcendental institutionalism**: seeking ideal just societies through institutions, regulations, social contract. E.g. Hobbes, Rawls, Rousseau, Kant. 'perfect justice', 'arrangement focused', with implications for behavioural norms
- **realization-focused comparison**: drawing on social choice theory, focusing on existing societies and removal of injustice. e.g. Adam Smith, Marquis de Condorcet, Bentham, John Stuart Mill, Mary Wollstonecraft, Kenneth Arrow.

The difference is not exclusively Western. In Sanskrit you have two terms:

- **niti** – organisational propriety and behavioural correctness
- **nyaya** – actually realised justice.

Transcendental institutionalism does not necessarily provide you a rationale for the next action steps to take.

"[A] theory of justice that can serve as the basis of practical reasoning," he writes, "must include ways of judging how to reduce injustice and advance justice, rather than aiming only at the characterisation of perfectly just societies."

Thomas Nagel in 2005 concludes that **global justice** isn't viable for discussion because there isn't a global government – argument is based on the Hobbesian premise of a state. Therefore, concentrate on long-term paths to institutional change.

Even Rawls has trouble when it gets to the global level.

Justice requires some basic demands of **impartiality**.

- Rawls argues you need an objective of established public framework which can apply judgement, based on reasoning and evidence.
- So Sen pays a lot of attention to types of reasons and rationalities.

Basic assumption of Rawls, Habermas & Smith =
objectivity = that which can withstand reasoning from an outside observer (pg 45)

Rawlsian justice as fairness:

Whole point was to avoid bias in our evaluations; impartiality

Rawls specifically draws on 'the original position' = primordial equality, before all the injustice that gets layered on top, and argues that that's where principles of justice would then be chosen unanimously.

Rawls's argument (pg 59)

1. Each person has an equal right to basic liberties, equal for all
2. Socioeconomic offices must be open to all and must be of greatest benefit to the least advantaged
--> therefore, **liberty is very central** /special!

Sen's response: impartiality can take many different forms, due to plurality of unbiased principles

'If no unique emergence of a given set of principles of justice that together identify the institutions needed for the basic structure of society, then the entire procedure of justice as fairness, as development in Rawls's classic theory, would be hard to use' pg 57

Basic critique is that the workings are based on a hypothetical structure of society, and doesn't account for *actual* behaviour in 'non-ideal' situations, i.e. everyday life.

Need to look at institutions that promote justice, rather than see institutions as manifestations of justice in and of themselves.

On impartiality:

Long argument, what does it mean to be objective.

Major points:

1. universality of inclusion
2. positionally dependent observations have to be taken into account if trying to understand impartiality – and positionally dependent illusions are hard to dislodge (169)
e.g. from the earth, the sun and the moon look the same size.

Some economists, like Milton Friedman, argue that even though not all models are true, they can be kept if they are useful and predictive.

Sen comments on the basis of economics as 'rational choice theory', as the sole pursuit of self-interests. He deconstructs the argument showing how your consideration of social norms can help other people's goals, rather than yours. It's not only maximalisation of self interest.

With power comes responsibility -like the mother who has to take care of her child.

Freedom=

1. **opportunity aspect** – freedom gives opportunity to follow the things we value (xref capabilities)
2. **process aspect** – ability to make choice freely, i.e. not under duress

Elaborations on **Capability Approach**:

'Capability approaches focuses on information on individual advantages, and judges in terms of opportunity rather than a 'specific design' for how a society should be organised' (pg 232). (Which is slightly different than Nussbaum's elaboration on social assessment).

1. capability vs. **Achievement**:

Not just what you end up doing, but what you're able to do, whether or not you choose to. e.g. there's a difference between fasting and famine. Critique by Arneson and Cohen.

2. plural composition of capabilities and role of **[public] reasoning**

Capabilities have "**non-commensurability**" --> irreducible to a single value, like the GDP. This means you need reasoning, not just counting. Reasoning is the weighing up of the non-commensurable. As a result capabilities approach is possible to use with partial rankings

3. Individuals, communities & their interrelations:

Can also look at **capabilities of groups**; which means go beyond the critique of methodological individualism (247)

Also, a person belongs to many different groups and to see them as just one group is a denial of freedom for the person to decide how to see themselves.

Then has a whole bit discussing welfare economics and happiness.

Kenneth Arrow of social choice theory used impossibility theorem that led to crisis in welfare economics – impossible to satisfy all demands at the same time!

Equality has multiple dimensions

Almost all theories of equality look at equality *of something*

Disagreements arise from:

'All this fits into the general pattern of arguing against equality in some space, on the grounds that it violates the more important requirement of equality in some other space.

Seen in this way, the battle on distributional issues tend not to be about 'why equality?' but about '**equality of what?**'." (pg 295)

Argues it is not equality of capabilities -> important, yes, but not a demand, as this cannot capture the equity and fairness of institutions and whether the process is fair. (296)

Democracy as public discussion and 'government by discussion' (Walter Bagehot).

Ballots are a *niti* – just institutional. Their effectiveness depends on other things, like free speech, access to information and freedom of dissent.

Freedom of the press is essential for 4 reasons:

1. Direct application of free speech
2. Information contribution, to accessibility of info
3. Protective function; give voice to the disadvantaged
4. Formation of values is done via public debate, which free press is a big part of

'Demands of open impartiality make the global perspective a necessity for a full consideration of justice anywhere in the contemporary world' pg 328

Ends book with discussion on **human rights** (HR)

HR has 'fact-value entanglement' – just a proclamation of their existence is an ethical judgement on what should be done.

Difference between HR as ethics and that which is protected/granted by law; ethical goes *beyond*.

Not all HR need to be punishable by law.

Raz, *The Morality of Freedom*: 'Rights ground requirements for action in the interests of other beings'. But Sen argues that rights go beyond just interests, unless your def. of interests is really broad.

Critiques of HR:

- institutionalisation: HR don't matter unless protected/granted by law
 - first proposed by Bentham, who called them 'nonsense on stilts'
- feasibility: HR don't matter unless can do them *all*, and that's not feasible.

Justice needs to be able to take on the plurality of reasons; a partial resolution is acceptable, particularly if based on partial rankings of preferences (xref capabilities approach)

To get justice, need to:

1. Assess actual social realisations
2. Look at comparative issues of enhancements of justice