

## MY IDEA AND UNDERSTANDING OF JUSTICE

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*“Justice is the power of individual concentration on duty. If a soldier is just in this sense, he is, of course, a brave man; if a man in subordinate position is just, he, of course, accepts and maintains authority, or is 'self-controlled'. Justice, therefore, is really the condition of the existence of all the virtues; each of them is a particular manifestation of the spirit of justice which takes different forms according to a man's function in the community. In modern phrases it is equivalent to a sense of duty.”*

*-Plato*

### INTRODUCTION

Justice, in the Preamble to the Constitution of India (Part III & IV), stands for rule of law, absence of arbitrariness and a system of equal rights, freedom and opportunities for all in a society. India looks forward to social, economic and political justice to ensure equality to its citizens. Justice in its very nature is a concept having wholesome of existing pursuits altogether in the field of co-existential, individual and social life. Justice was counted as one of the most important cardinal virtues (of four cardinals); in modern times John Rawls famously described it as ‘the first virtue of social institutions’ (Rawls 1971, p. 3; Rawls, 1999, p.3). The idea of justice symbolises a nucleus platform both in ethics, and legal and political philosophy.

## AMARTYA SEN'S THE IDEA OF JUSTICE

### *Central Ideas:*

Development as Freedom: The Idea of Justice elucidates that the development process must fulfil providing the opportunities for people to live the kind of lives they have desired and valid reasons to value. It is about expanding freedoms, such as freedoms to be literate (the ability to read and write), to be accessible to medical facilities, to live in peacefully and securely, to be able to participate in the daily life of the community affairs, and to be accessible to any public facilities without any discrimination, etc.

Development studies: The Idea of Justice advances the statement regarding development considering that it should be in full-swing force to make the world less unjust. It must work on reducing injustices and poverty globally. And it deeply highlights not to make both poverty and injustice go hand in hand especially in rural and underdeveloped areas. This combination of phenomena would result in the failure of humanity.

**PART I:** Reason, Objectivity, Institution and Persons, Voice and Social Choice, and Partiality.

**PART II:** Forms of Reasoning, Themes- Rationality, Plurality, Impartial Reasons, Rationality and Other People.

**PART III:** Capabilities Approach, Freedoms and Capabilities, Equality and Belief.

**PART IV:** Practice of Democracy, Democracy as Public Reasons, Sections on Justice & the World, Human Rights & Global Imperatives.

The preface of Sen's the Idea of Justice grasp the bigger picture to elucidate a theory of justice which "aims to clarify how we can proceed to address questions of enhancing justice and removing injustice, rather than to offer resolutions of questions about the nature of perfect justice" (Sen IX). The preface describes two approaches, which include the **comparativist framework** & the social contract framework.

***Identification of Problems which Sen Scrutinises:***

(i) “What identifies as perfect justice, rather than on relative comparisons of justice & injustice?” (Sen 6:2009)

The approach of ‘**perfect justice**’ tries to figure out social characteristics particularly which cannot be transcended in terms of justice. And its focal agendum is thus not on comparing feasible societies, which may result in shortage of fit ideals. And it is also directed to nurture the very basics, the nature of the just.

(ii) “*In search for perfection, would the approach become less focused on actual ideations?*”

In search of perfection, ‘transcendental institutionalism’ may give concentration mainly on having the institutions right. It is also inversely focused on the actual societies. It requires to attempt on ‘how change within the actual society is going to be completed’, not by fulfilling institutions to be perfect but to the point only to declare and achieve a ‘just’ institutions. "The nature of the society that would result from any given set of institutions must, of course, depend also on non-institutional features, such as actual behaviours of people and their social interactions” (Sen 6 : 2009).

## **COLLECTIVE ANALYSIS OF MAIN APPROACHES**

### ***The Social Choice Theory as an Approach***

It is concerned with the relationships between people, their preferences & social choice. For example a group of individuals such as a team making a decision, individuals may have different opinions/likes/choices over options which are available. One may use social choice theory as a framework for reasoning as Sen discusses position of observation and knowledge as important approaches in his work. Position requires observations,

actions, and beliefs which are pivotal to the understanding of sensible reasoning. According to Sen, "Objectivity is a position-dependent phenomenon" (Sen 157).

### ***The Capability Approach***

*"The capabilities approach focuses on human lives, and not just on the resources people have, in the form of owning – or having use of – objects of convenience that a person possess" (Sen 253:2009).*

This approach emphasises on capabilities & substantive freedoms. It consists of the ability to engage in economic activities or participate in political affairs. Poverty is understood as a capability deficiency in Sen's view. The emphasis is not only about humans' operational ability, but also their capability to have a practical choice(s). It is evident that in certain cases there seems to have happened the case of stripping off capabilities and its causes are in many ways such as ignorance, government oppression, lack of financial resources or false realisation.

## **JOHN RAWL'S THEORY OF JUSTICE**

John Rawls (1921-2002) in his well known work "A Theory of Justice" (now Political Liberalism) mentioned a method for making procedural justice as an instrument of fulfilling the efficacy of social justice. He propounded a theory which is known as "justice as fairness", from which Rawls derived two famous principles of justice:

- (a) the liberty principle, and
- (b) the difference principle.

With his theory, he developed and devised a concept, that is, original positions, in which everyone decides principles of justice behind a veil of ignorance. This veil helps people blind from differences such as social, economic and political differences.

According to Rawls, ignorance of these differences about oneself and society will lead to principles of fairness to society as whole. Rawls's theory of justice revolves around the adaptation of two fundamental principles of justice, which would assure a guarantee for a just and morally acceptable society in turn. The two principles:

- (i) guarantees the right of each person to have the most extensive basic liberty compatible with the liberty of others;
- (ii) it states that social and economic positions are to be (a) to everyone's advantage and (b) open to all.

## **MY IDEA AND UNDERSTANDING OF JUSTICE**

The gist and thirst for justice are of great significance. It has been the most associated activism of all great social, political and legal thinkers & reformers with their valuable contribution since the beginning of first civilisation. Ancient Greek, Roman and Indian view of justice was more than enough to inculcate within the purview of the very basic principles of natural justice. The postulation of justice as a fit standard derived, can be said to arrive from the holy nature based on Dharma, i.e. truth, equality, righteousness and deep moral values. The jargon of justice symbolises a set of ideals and principles for welfare of all without any glimpse for injustice, inequality or discrimination. The notion of justice is which directs mankind's deed to the fairness and reasonableness of the rules, principles, and procedures, being the ingredients of the edifice of justice.

## **MY CORE ASPIRATIONS FOR JUSTICE**

The aspirations for justice that I'm looking forward to, in the coming days to come, consists of a society which uplifts, safeguards and protects the dimensions of justice such as social, political and economic justice. And these very aspects of justice shall

be intertwined and embedded with the deep-rooted principles such as equality, fairness and liberty.

**Social justice** is a plural idea of a society, which is also a necessity and a part of complex social change to relieve the underprivileged. It involves intertwining the principles of justice to the economic and social opportunities or outcomes. It is based on the concept that a state is responsible for its citizens. It aims to be in the interests of the community as a whole, and in the interests of social cohesion collectively. This is also the basis of political justice, being the notion of fixing the level of social justice and the rules of legal justice which happens only with the establishment of proper political order within its strata.

Coming to the very principles of justice, without which the true meaning of justice can never be achieved:

**Equality-** It is the most fundamental principle of justice. It was firstly defined by Aristotle that "equals should be treated equally and unequal unequally." The aspiration of equality that future generations must look up to is equality of opportunities and equality of integrity irrespective of one's gender, caste, class and religion.

**Fairness-** It is another important pillar of Justice. It is about ensuring each person what he or she deserves or giving each person his or her due. is used to refer to the ability to make judgments that are concrete and specific to a particular case. Fairness as a principle is the need of hour as without it, ensuring normalcy and proper functioning of existing bodies which come under rule of law or even nature, would be impossible to achieve.

**Liberty-** The third pillar of justice is human liberty. Hebert Spencer and Immanuel Kant channelised the ideal of Justice with human freedom and liberty. Spencer once described justice in his celebrated doctrine "every man is free to do that which he wills provided he infringes not the equal freedom of any other man." Expansion of individual liberty and sanctity of contract were essential components of Justice.

Stammler classifies the principles of justice into two categories, namely, the principles of respect and the principles of participation. These principles have got to do with respect for human beings, and means of existence respectively, also being the basic norms of justice. With high spirit and utmost belief to see aspirations for justice coming into reality in near future, I would like to mention worth remembering the cherished Golden Words of **MAGNA-CARTA**:

*“to none shall we deny justice,*

*to none shall we delay justice,*

*to none shall we sell justice.”*