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Critical Analysis of John Rawls Theory of Justice and Amartya Sen's Idea of Justice

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The concept of justice is a complicated subject that has put many scholars and thinkers into a grey area. There are many theories that have been put forth by the thinkers that suggest their idea of a just society. The complicated nature of 'justice' has not been precisely justified by any of these theories, but they do provide a vision of a just society on the lines of which the society can make its rules and regulations. This can be seen in the two famous social justice theories propounded by John Rawls through his work, The Theory of Justice, and by Amartya Sen through his 'Idea of Justice.' The paper aims to analyze the principles given by Rawls and Sen in their respective theories through a critical comparison between these two theories. It also endeavors to analyze Sen's criticism of Rawls's theory and the similarity between their notions of justice.

Keywords: *justice, theory of justice, Rawls theory.*

INTRODUCTION

'What is justice and how can it be achieved' are the questions that are still complicated to answer. These questions have led to the emergence of many theories of political philosophy propounded by thinkers like Jeremy Bentham, Jean Jacques Rousseau, John Locke, etc. One

such theory is 'The Theory of Justice' given by John Rawls.¹ John Rawls came up with this theory at a time when 'justice' was the subject not much talked about. Thinkers mostly came up with ideas about welfare society and happiness of greatest number. The Theory of Justice was an alternative to the utilitarian concept that was in trend. The fundamental principle of his theory is mutual cooperation among the members of the society. On this principle, he has proposed the ways by which this can be achieved which shall be discussed in the present paper. The Idea of Justice² is a book published by Amartya Sen in 2009 in which he has summarized and extended his ideas on the important theme of social justice. His book has been characterized as '*criticism of Rawls's theory*'; however it is also a contribution to Rawls's Theory of Justice.

JOHN RAWLS'S THEORY OF JUSTICE

The theory given by John Rawls is based on a "*well-ordered society*" where its members are contributing to each other's welfare and where there is a common perception of the notion of justice. These are the two principles, which according to Rawls satisfy the establishment of a good society.³ He believes that this mutual cooperation between members of the society is not able to develop because the individuals constantly struggle between their personal interests and the shared interests of the society. Due to these differing interests, the idea of what is just and unjust is generally a contentious topic. To further analyze his theory of justice, it is first necessary to understand Rawls' definition of justice.

Rawls Definition of Justice - According to Rawls, "*just as truth is the first virtue of thoughts, the notion of justice is the same for the social institutions. No matter how legitimate a theory is, it must be rejected if it is false; in the same manner, no matter how efficient the law and social institutions are they must be abolished if they are unjust.*"⁴ Rawls constructs his theory on the idea that justice has to be associated with fairness, with members enjoying freedom and equality and where the society is adjudged as free. This notion of '*justice as fairness* can only be accomplished if society

¹ John Rawls, *The Theory of Justice* (The Belknap Press of Harvard University Press, Cambridge 1971)

² Amartya Sen, *The Idea of Justice* (The Belknap Press of Harvard University 2009)

³ John Rawls, *Political Liberalism* (Columbia University Press, New York 1993) 358

⁴ D.J. Bentley, 'John Rawls: A Theory of Justice' (1973) *University of Pennsylvania Law Review*, 121

returns to its original position. By original position he means, the traditional state of nature where there is no actual state of affairs but rather a primitive culture of equality.⁵ Rawls characterizes this as a hypothetical situation to reach a conception of justice. This hypothetical contract between the individuals of the society through which the principles of justice can be formulated to form a basic structure of the society is known as *John Rawls' hypothetical social contract* which is loosely influenced by the social contract theories⁶ of Locke, Kant, and Rousseau. There are certain conditions to the hypothetical contract that Rawls has proposed. These conditions are:-

1. Veil Of Ignorance - To support his theory of 'original position', Rawls suggests placing people under the 'veil of ignorance.' This is the most important facet of his theory of justice. It has been established above that Rawls believes that there is always a conflict between the interests of individuals and the shared interest of the society due to which it is difficult to establish a well-ordered society. He provides a solution to this underlying problem; he suggests that the people should be placed under the veil of ignorance where they are not aware of their place in the society, their social status, economic conditions, class position, intelligence, and such.⁷ In such conditions, where people are not aware of their position, they will support decisions that would be fair to all members. As there would be a possibility that they might occupy a poor position, they would come up with rules and regulations that will uplift the conditions of such people. In this way, Rawls claims, the principles of justice would be established.

2. Maximin Rule - Rawls establishes that under the veil of ignorance, the people would adopt the 'maximin rule' through which they will compare the alternatives by the worst possible outcome and choose one which maximizes the utility of that worst possible outcome. This rule is rational because individuals are not aware of the probability of the circumstances that might

⁵ John Rawls, *The Theory of Justice* (The Belknap Press of Harvard University Press, Cambridge 1971) 11

⁶ John Locke, *Second Treatise of Government* (Hackett Publishing, 1980); Jean Jacques Rousseau, *The Social Contract* (Penguin Books, 2004) and Immanuel Kant, *Grounding For The Metaphysics of Morals* (Hackett Publishing, 1993)

⁷ Dhawal Shankar Shrivastava, 'Rawls's Theory of Justice Through Amartya Sen's Idea' (2016) 11 Indian Law Institute Review, 151

come as a result of their decisions. Through this, a system would be created in a society where the bare minimum is acceptable and accessible by all. Under these circumstances, the ideal principles of justice would be achieved.

RAWLS'S PRINCIPLES OF JUSTICE

Rawls claims that out of this social contract and the original position, two principles of justice would emerge based on equality and liberty. He has modified and presented his two principles in the following way⁸:-

- *Every person has an equal right to claim the fully basic liberties which are compatible with the other schemes of liberties; and*
- *Social and economic inequalities should be such so that they satisfy two conditions: a) they should be attached to positions and offices for all; b) should benefit the disadvantaged.*

According to Rawls, these principles will become the rules and regulations to regulate the distribution of economic resources among all equally. These principles deal with the aspect of distribution of wealth under the veil of ignorance. He further prioritizes the upliftment of least advantaged people in the economic distribution through his second principle. He claims that there should be inequality in economic distribution so as to benefit the poor sections of society. He states that among these basic liberties, there are certainly important ones that are:

- Political liberty (right to vote and hold public offices);
- Freedom of speech;
- Freedom of thought and conscience; and
- Freedom from any psychological and/or physical assault.

He further gives a serial order to these two principles and states that the first principle should take precedence over the other. By this, he means that the equality and liberty of all should not be compromised by the social and economic advantages. The unequal distribution of wealth cannot affect the right of individuals to have equal claims of basic liberties.

⁸ John Rawls, *The Theory of Justice* (The Belknap Press of Harvard University Press, Cambridge 1971) 53

AMARTYA SEN'S IDEA OF JUSTICE

Amartya Sen's Idea of Justice is largely based on his modern thinking on the notions of social justice. His work on the Idea of Justice, as mentioned above, is loosely a critic of Rawls's Theory of Justice which Rawls himself has accepted later in his life to be quite inadequate in the context of changing notions of justice. His notion of justice is linked to '*freedom of development*'.⁹ He claims that the development process of individuals can only improve if they are given the freedom to live their life in accordance with their reasoning and values. He expands this valuable freedom and liberty to social justice. In this sense, his theory has brought an intellectual revolution to the area of social justice.

SEN'S CRITICISM OF RAWL'S THEORY

He argues that the principal question asked by Rawls, 'What is just society?' is indeed taken as a central question in many contemporary political theories but this should not be the initial approach to discovering notions of justice. This approach taken by Rawls will direct us towards the '*transcendent institutionalism*' which implies identifying a perfect approach to societal arrangements. According to him, this approach of transcendental institutionalism will lead us to two main problems¹⁰:

- The problem of feasibility; and
- The problem of redundancy.

The first problem of feasibility will be an imposing problem as it is impossible and practically difficult. This impossibility is due to the reason that Rawls's theory is based on a hypothetical situation and a hypothetical social contract. He arrives at the reasoning of certain sets of principles of justice through impartial decisions taken by the individuals under the veil of ignorance. This would also conceal the genuine and persisting demands of the people. He explains this point through an example of three children and their demands for the flute. One

⁹ Severine Deneulin, 'Development and the Limits of Amartya Sen's The Idea of Justice' (2011) 32 (4) Third World Quarterly, 788-792

¹⁰ Charles Barclay Roger, 'Amartya Sen and the Idea of Justice' (*Open Democracy*, 5 October 2010) <<https://www.opendemocracy.net/en/amartya-sen-and-idea-of-justice/>> accessed 05 February 2022

child argues that he is the best flutist among the others and that he should receive the flute; the other argues that he is the poorest whereas the third child claims the flute by arguing that he has crafted the flute on his own. Sen argues that the reasoning given by all the three children is correct on its own and is supported by strong arguments. Their genuine demands cannot be eliminated by justifying the removal of poverty or the result of hard labor as the reason.¹¹ The second problem of redundancy is that it is not necessary to identify perfect societal arrangements to arrive at a complete just system. Justice can never be perfect as the idea of justice for one person would be different from the other. Therefore, a perfect system for social justice cannot be arrived at. He compares this with the analogy of the paintings. To a person the painting of Da Vinci would be the best in the world; this does not tell how he would compare the painting of Van Gogh with the paintings of Picasso.¹²

He claims that the individuals do not need to know how or by what means the society can be perfect, rather they should be able to compare two or more states of affairs and decide which one would be better or worse for their societal standards. Sen defines this approach as a *'realization-focused comparative approach.'*¹³ This approach suggested by Sen is similar to the theories propounded by thinkers like Bentham, JS Mill, Karl Marx, and Adam Smith and his own theory of social choice which earned him the Nobel Prize in 1998. Through this theory, he established that understanding the demands of justice can only be achieved after gathering more information and gathering more evidence.¹⁴

SEN'S AGREEMENT WITH RAWLS'S THEORY

Sen agreed that justice should be perceived as one which is fair for all. In this sense, he was in agreement with Rawls's concept of 'justice as fairness. As mentioned above, Rawls believed that justice can only be achieved if the members are given enough freedom and liberty in society. Sen also believed that freedom should be given to individuals so that they can live in a society the way they reason it to be. This is the reason why he expanded freedom to include

¹¹ Chris Brown, 'On Amartya Sen and the Idea of Justice' (2010) 24(3) Ethics and International Affairs, 317-318

¹² *Ibid*

¹³ Amartya Sen, 'What Do We Want from a Theory of Justice' (2006) 103 (5) The Journal of Philosophy, 236-238

¹⁴ Martijn Boot, 'The Aim of a Theory of Justice' (2012) 15 (1) Ethical Theory and Moral Practice, 7-21

freedom to read and write, freedom to live in a peaceful environment, freedom to participate in the activities of the society, and freedom to live with dignity.¹⁵ However, Sen argued that this cannot be achieved through the 'original position' theory proposed by Rawls.

It has been understood that Sen does not believe in the possibility of a perfect justice system in a society. According to him, justice is not affected by the shortcomings of the institutions but is rather affected by behavioral transgressions. Justice and crime are ultimately associated with the lives of the people and their behavior with the other members of society. This is more relatable to the reality as it can be seen that the institutions like courts may work efficiently in providing justice to the victim, but this does not stop the criminals to commit crimes. This forms Sen's fundamental principle of his Idea of Justice- *Niti over Nyaya*.¹⁶ By Niti, he means that the focus should be on the behavioral correctness of the individuals. His idea of Nyaya is what emerges after focusing on the behavioral aspect of the people. However, this does not imply that he denies the importance of institutions in achieving justice; he believes that institutions play a very important role in a democratic setup where the voices of different sections of the society cannot be neglected.

CONCLUSION

Amartya Sen has given plausible reasons for the failure of some aspects of Rawls's theory of justice. However, it is important to note that no one theory can confine the correct and perfect means to achieve justice. For example, if we take gender inequality into the picture, its meaning may differ from one person to another. For some, it may mean a lack of opportunities given to women in comparison to men while for some men it may mean that the women are getting too many privileges and opportunities. These arguments may be supported with strong convictions and this is how the notions of justice may vary from person to person. Although a perfect justice system may not be established, there should be a vision of a just system that should be put forth before the members' noble conduct and pursuit which shall be followed by them. For instance, Karl Marx has propounded a perfect society where the

¹⁵ John Rawls, *The Theory of Justice* (The Belknap Press of Harvard University Press, Cambridge 1971) 788

¹⁶ John Rawls, *The Theory of Justice* (The Belknap Press of Harvard University Press, Cambridge 1971) 158

working class would not be suppressed and who would eliminate the gap between the exploiters and the exploited. Although this was a utopian situation created by him, his theory has brought a revolution, where statutes are made in favor of workmen (labour laws, compensation act, etc.) and where the budget is made to reduce the poverty in the nation. In this sense, the theories of John Rawls and Amartya Sen have been successful in putting forth a model which can be followed by society. Sen through his Idea of Justice has criticized many aspects of Rawls's theory, however, both Rawls and Sen believe that a system that promotes the welfare of the society and happiness of the greatest number is not correct. It would be unreasonable to compare Sen's Idea of Justice with John Rawls's Theory of Justice as both the theories fill the gaps that the other could not foresee.