

CHAPTER VI

CONCLUSION

How should we distribute the scarce resources and opportunities among the individuals in a society? What should be the aim of distribution? How could we begin to make improvements towards creating a globally just world? There has been a vigorous debate and discussion on such questions from Plato to Rawls to provide a more systematic way of managing our collective interest and to define the concept of justice. Ideas of social justice became a common reference point in almost all political discourses and philosophical enquiry. As such, concepts such as rights, liberties, equalities, needs and deserts have been accommodated into justice's sphere which have increased its influence in political philosophy over times.

Throughout the ages the concept of social justice has been discussed by writers and philosophers in different parts of the world, adopting a unique 'informational base of judgement', making a reasoned diagnosis of injustice and from there to the analysis of ways of advancing justice, however, the discipline was further enhanced during the European Enlightenment in the 18th and 19th centuries (though they differ in their approach to justice), complimented by the political atmosphere of transformation and also by the social and economic conversion in those places. A straightforward but convincing reasoning is that, the need for a theory of justice arises, because of conflicts over distribution of resources among individuals in society. Moreover, as

there is disagreement both individually and collectively on selecting a distributive criterion, the concept of justice, despite being framed by various theorists still has no established meaning. For instance, whether giving death penalty to an individual in a society is just or unjust? These are some serious questions on which people's perspectives and views vary and the question of agreement and disagreement arise, which further affects in the policy formulation process. Thus it can be concluded that the drive for a 'perfect theory' actually manifest from within our everyday comparative and evaluative thinking about what we should do while adjudicating these sort of complex cases. The research work was an attempt to answer such questions and provide a practical and realistic solution to the approach towards social justice while critically engaging with Amartya Sen's idea of justice and further searching for reconciliation between both (Rawls and Sen) the paradigms of justice. As the present work is limited to the analysis of Sen's idea of justice, taking the Rawlsian paradigm under consideration (because Rawls's approach to justice has till now being the most acceptable and dominant approach in the discourse of social justice) therefore providing an alternative approach to justice is left for further research and enquiry.

The study while engaging with the new paths and methods of thinking and analysing about justice and the gradual change in its scope with the changes in Europe brought by Renaissance and Industrial Revolution found that, portraying perfectly just institutions had become the vital exercise in the modern theories of justice.¹ It was seen in the writings of John Rawls, who refabricated the liberal theory through his book, '*A Theory of Justice*', in which he strived to create a perfectly just society. Rawls understood and defined justice not in terms of law of nature or something based

on reason, but as a fair distribution of primary goods among the people which consist of the basic rights, liberties, opportunities, and also benefiting the least advantage persons (the marginalised people) thus making the procedure fair and just.² However, as the present study represents the existing situation of justice in societies, therefore democracies in the world cannot be judged by the institutions that formally exist (like the three organs of the government-executive, legislature and judiciary). Taking the case of India, a multicultural and multilingual state where needs of the diverse sections of the society have to be protected and given adequate representation, a theory of justice has to focus on actual lives in the assessment of justice. Though we cannot ignore the importance of the institutions and rules influencing the part and parcel of the actual world as well, but when the focus is on the actual lives of the masses, while assessing the notion of justice, the implications are very wide ranging in terms of the nature and attainment of the idea of justice. Under such an circumstance, the study focused on an alternative having a influential and significant analysis of the idea of justice provided by Amartya Sen, when he formulated the demands of justice not only in terms of principles of justice that were entirely concerned with just institutional arrangements for a society, but also emphasised on the broader outlook of social realizations, the freedoms that people can achieve in reality, thus giving importance to the reasonable behaviour and original lives of the citizens.³ Unlike, former theories of justice that endeavours to limit the questions of justice, to the nature of perfect justice; the central theme of Sen's theoretical proposal was to eradicate manifest cases of injustices. As we commonly pursue justice in terms of our understanding of the present world, how it is being ordered or controlled and to visualize and analyse the

change by becoming a part of it, hence the study tried to analyse critically the practicality in Sen's notion of justice in the present world (especially in Indian context), keeping in regard, Rawls' institutional perspective and Amartya Sen's realization focused perspective.

However, before evaluating Sen's notion of justice, the study in order to understand deeply the concept of justice evaluates its development (especially chapter II) from the traditional period and finds that, justice was recognised as a significant political and moral virtue during the Greek period. However the concept of justice was narrow in its scope as it focused on creating a just state, with very little emphasis on the notion of individuality, its interests and needs. In fact, Plato and Aristotle were silent on how the distribution of goods could be done in a just way.⁴ Though Aristotle in his Book 5 of '*Nichomachean Ethics*', deals in considerable depth with the moral and political virtue of justice, believing in equality (proportionate equality) in arriving at the notion of justice, however, the necessity of differentiating between the deserving and the undeserving was not taken into account.⁵ The study thus reveals that, though the idea of justice developed but its fruits were limited only to a few section of the society, excluding the women and slaves, emphasizing on a broader conception of it.

In fact the medieval philosophy was problematic in the sense that though they believe that justice can be achieved only in a Christian society and all human beings are creatures of loving God, but in reality supported the system of slavery. Despite advocating a peaceful world order the medieval philosophers (like St. Augustine and St. Thomas Aquinas) supported the just wars in order to establish religious order and

killing people in the name of self-defence. St. Augustine in his book, '*The City of God*', argues that the Roman society was truly unjust and hence supported just wars as morally acceptable and even as morally mandatory in order to establish peace and justice in the world.⁶ Thus, the study finds out that, the notion of justice was associated with religion and was narrow in its vision.

The study also comes across the development of justice in the modern period and marks that there was a sharp dominance of the social contract theorists and the utilitarian principles that gave their own lenses to the concept of justice. Though the philosophers gave importance to individual liberty and the institutions necessary to limit the excessive freedom of the individual for the maxim, but failed to give a clear picture of the principles necessary to define justice. It was found that, thinkers like Kant though believed that a just society is one whose members reciprocally respect each other's rights by refraining from violations of them.⁷ Like Hume and his successors, Kant also supported and defended the right to private property.⁸ Far from supporting a minimal state, though Kant argued that a just state is one where citizens enjoy freedom within the purview of law, however regarded women and servants as merely passive citizens not suitable to vote, and his opposition to any form of rebellion or resistance or revolution against oppression, further limited the scope of justice. The social contract theorists and the utilitarian principles (can be seen in the writings of J. S. Mill and Bentham) that gave their own lenses to the concept of justice, however, failed to answer whether to put more emphasis on the rights of individuals or on the happiness of all.

This famous dilemma of ‘One vs. the Many’, became the cornerstone of the philosophy of the modern theories of justice as from the social contract theories (that gives importance to liberties and natural rights) to the principle of utilitarianism (that gives importance to greater number of happiness) were all seen engaged in solving this equation. However, in the 20th century, this question has provoked perhaps the most influential treatise on justice to date, John Rawls, *A Theory of Justice* (1971). The study explicitly focused on Rawlsian theory of justice as it is till now the most acceptable theory in the domain of social justice, despite criticized from various accounts. While engaging with the Rawlsian approach it was noticed that the characterization of perfectly just institutions became the central exercise in his theory of justice.⁹ This central idea of justice as fairness, which is illuminatingly defended by Rawls, is a major perspective that gives us significant direction and understanding, taking us beyond the previous philosophical arguments on the subject of justice. Advocating a Kantian Version, Rawls revived the social contract theory that had been ignored and denounced in the wake of Hume’s critique and its vilification by utilitarians and pragmatists.¹⁰ Using the contract idea as a hypothetical device to place his theory, Rawls hopes that in the original position man can go for no other principle than the two principles of justice (among many alternatives present in the original position) in order to distribute the benefits and burdens of the society, that will help the people, and to pursue a conception of the good.¹¹ Focused on establishing perfect just rules, institutions and structures that would lead to the enhancement of justice, Rawlsian approach was arrangement focused framework. The study while analysing Rawlsian later work, *Law of Peoples*, finds that he acknowledges that some non-liberal

societies could be, if not actually be just, at least 'well ordered' and 'decent.'¹² By focusing on rules and procedures for fairness under the first part of the second principle, Rawls provided a considerable enhancement of the literature on inequality in the social sciences. Rawls' fierce commitment to the principle of inequality has concentrated beyond disparities in social status or economic outcomes, while focusing on disparities in the processes of operation, to promote integration and better utilization of talents and a more equitable distribution, highlighting the disparities on grounds of their race or colour or gender. However, it was seen that in Rawls' later work, *Political Liberalism*, first published in 1993, establishing stability was his main concern. Hence instead of establishing the analogy between the right and the good in a well ordered society of justice as fairness, the goal was to consider how stability is even possible in a society characterized by a reasonable pluralism of comprehensive doctrines.¹³ Thus Rawls claims that the principles of justice would be the unanimous choice that would emerge from the political conception of justice as fairness and would determine the basic social institutions that should govern the society they are, we imagine, about to create.

Despite Rawls' path breaking analysis on justice the study finds out certain major shortcomings in his principles that were also taken under consideration. In fact Rawls himself has acknowledged that his original formulations were in some respects, inadequate, which has also led philosophers like Amartya Sen (while critically engaging with the Rawlsian Approach) to search for an alternative approach on this subject.¹⁴ The principles of justice, in the Rawlsian formulation identifies the priority of liberty (the first principle) giving precedence to maximal liberty for each person

subject to similar liberty for all, compared with other considerations, including those of economic or social equity. Besides, equal personal liberty is given priority over the demands of the second principle which relates to the equality of certain general opportunities and equality in the distribution of general purpose resources. Thus it is seen that liberty is being reduced to a basic component that compliments other facilities, as there is something very special about the place of personal liberty in human lives. Moreover in the difference principle, Rawls gives emphasis only on the opportunities that people have through the primary goods that were available for them and not on the capabilities of an individual on how to convert that primary goods into good living.¹⁵ For example, a disabled person can do far less with the same level of income and other primary goods that can an able- bodied person. G.A.Cohen despite being deeply influenced by the Rawlsian approach, however argues that, ‘justice cannot be a matter only of the state –legislated structure in which people act but is also a matter of the acts they choose within that structure, the personal choices of their daily lives’.¹⁶ Thus the second chapter finds that there is a strong need to move from primary goods to focus also on the actual assessment of freedom and capabilities of the people.

However, it should also be realised that the nature of the society that would result from any given set of institutions will also depend on non-institutional features, such as actual behaviours of people, capabilities and limitations. Institutions and rules are of course very important in influencing what happens, and they are very much a part and parcel of the actual world as well, but when we talk about peoples’ realization, than it goes beyond the strict organizational principles and includes the

lives that people actually live.¹⁷ The study hence finds out that, the actual freedom and capability turn out to be quite central to the analyses of justice in the world, and these will have to be examined and scrutinized and so a broader concept of justice was needed. From the analysis of the constitutional philosophy it was noticed that despite various constitutional provisions on providing justice in the society and also for the upliftment of the marginalized and weaker sections of the society, by empowering them, on the contrary a different picture is seen in the so called reform era.¹⁸ Keeping in view the above directive, the study focused on an alternative approach to justice emphasized by Amartya Sen who argued that, justice cannot be indifferent to the lives that people can actually live, hence the importance of human lives, experiences and realizations cannot be supplanted by information about institutions that exist and the rules that operate.¹⁹ The study finds out that, though we cannot ignore the fact, that we are immensely benefitted from the ideas and concepts that developed during the traditional and modern period, which played a constructive part in the development of the theory of justice, but we cannot make this mode of thinking (for example the Rawlsian mode of thinking on justice also argued by Sen) on justice into an intellectual standstill.

Though Amartya Sen's analysis of the notion of justice is aimed at providing a new insight and an alternative approach to the existing theories of justice, however the study reveals that methodologically the focus of Sen's was on the political philosophy of John Rawls, which has been the most influential and dominant approach.²⁰ In fact the study finds out that to some extent Sen has tried to analyse critically the Rawlsian approach, the way Rawls himself undertook quite successfully against the then

dominant approach, 'utilitarianism', in his book, *A Theory of Justice*. However, before proposing an alternative approach to social justice, Amartya Sen places great emphasis and importance on first examining and evaluating the merits and limitations of the informational bases of existing theories before putting forth his own approach. The study highlights while analysing Sen's book, *The Idea of Justice*, finds that Rawls prioritizing of liberty and contextualizing it as a separate entity and in many ways recognizing its significance in the assessment of the justice of social arrangements has made Sen foster a definite space to the concept of freedom within the main corpus of his theory of justice.²¹ However for both the philosophers, liberty is a prized social virtue, though it was noticed that Sen, unlike Rawls, does not accord lexical priority to liberty above all else. Further Sen argues that Rawls inclusion of liberty in the list of primary goods has helped to determine a person overall advantage and disadvantage in the social structure.²²

The present study (primarily chapter III) also differentiates Sen's understanding of the notion of justice from the Rawlsian institutional perspective and tries to make an in-depth analysis of Sen's approach. Sen promotes the notion that people should have their own perspectives and accounts of justice; thus socially, just outcomes will not be universal across all cultures and societies. Analysing the two models of classical Indian philosophy, 'Niti' (strict organizational and behavioural rules of justice) and 'Nyaya' (concerns with what emerges and how such rules affects the lives that people are actually capable to lead), Sen draws the idea of realization perspective on social justice.²³ Sen criticizes the earlier philosophers like Rawls for neglecting and focusing on 'niti centred' approach and thus underrates the essential

combination of just institutions and correspondent actual behaviours that makes a society practically just, from which he formulates his central argument. Sen thus subsequently emphasizes the opposite 'nyaya centred' approach according to which, 'what happens to people', must be the core concern for a theory of justice and thus provides a better understanding for justice. The study also observes that Sen calls into question the fundamentally deontological approach to justice that we find in Rawls and hence puts forward more of an apparent consequentialist approach (though he himself does not refer to it as a strict consequentialist idea of the classical utilitarian era) in order to remove manifest injustices. Thus the study differentiates Amartya Sen from earlier theorists as his evaluation of justice was aimed not at recognizing the nature of just (whether it is just institutions or society) but rather to construct a theory that helps people to realize and make ways how to reduce injustice and advance justice, as well as understanding the factors affecting the degree of justice in any existing society.²⁴ Sen wants it to be based on practical reasoning in order to make his demands for justice much more feasible.

The study also comes across some examples given by Sen in order to show the inadequacy of Rawlsian ideal theory. As such, Sen's theoretical approach defends the importance of the real capabilities, by describing the engaging story of three children, Ann, Bob and Carla, who are quarrelling over the fate of a flute.²⁵ Ann claims the flute on the basis that she is the only one who knows how to play it, Bob's claim is based on the fact that he has no other toys to play with while the others do, and Carla claims it because she has made the flute in the first place. The study found that, Sen here wants to point out is that there can be different yet important plurality of reasons and values,

(hence a simple plurality of right answers) unlike the Utilitarians, Aristotelians and libertarians to decide which of these answers is the right one.²⁶ Therefore it would be not be correct to assume that there is only one kind of just society, for example a liberal society based on the Rawlsian principles and the rest existing societies are not ideal---is thus against the ides of pluralism that vehemently exists in the present world. In order to understand justice in actual situations Sen at the same time seeks to include not just social choice theory, but also pluralities of rationality, including those dealing with sentiments. Sen argues that the Rawlsian theory of a just basic structure of the society has changed the way we think about inequalities and the issues of justice as it has paid very little or inadequate attention to freedom as such, by concentrating on the means to freedom rather than on the extent of freedom.²⁷

However, Sen argues that though Rawls gives emphasis only on the opportunities that people have through the primary goods that were available for them but gives less attention on the capabilities of an individual on how to convert that primary goods into good living. Sen appreciates Rawls for making deprivation central for the purpose of advancing a set of primary goods, however, it is at the same time important that they do take into account the different abilities or capabilities of persons to use resources to advance their highest order interests (chiefly to pursue their own conception of the good).²⁸

While formulating the fundamental idea of justice, the research work examines that, Sen aligns his approach with the works of various philosophers advocating the comparative approach. Sen also argues that by taking the comparative route while

dealing with the cases of justice people will agree on a particular pair wise rankings on how to enhance justice, despite the comparative assessments on the values and priorities of the people involved through discussions and scrutiny remains incomplete.²⁹ The study also finds that, Sen criticizes the closed nature of the participatory exercise that Rawls invokes, by restricting the ‘veil of ignorance’ to the members of a given focal group. It is this limitation of reliance on parochial reasoning, linked with national traditions and regional understandings that Sen wants to resist by adopting Adam Smith’s device of ‘impartial spectator’. This impartial spectator approach takes into its ambit ‘social realizations’, avoids ‘local parochialism’, and permits ‘incompleteness’, by addressing the urgency of removing manifest cases of injustice, helps and gives guidance in the areas of social justice.³⁰ This approach goes beyond the parochialistic perspective of the social contract model and thus represents groups and voices beyond the membership of the contractarian group, reflecting the influence of other empirical experiences within its ambit. Sen thus thinks that we should not assume that our particular way of doing particular things is the ideal way, which has made the Rawlsian approach to justice within the purview of a nation state and hence has little in substantial measure to say on global justice.³¹

Although advocates of the Rawlsian approach (such as Sebastiano Maffettone) and post-Rawlsians (such as Thomas Pogge) have made heroic attempts to stretch the Rawlsian fabric enough to cover the limitations in formulating a global discourse on justice, besides this impossibility of global justice in the Rawlsian theory comes from Thomas Nagel.³² Since Sen agrees with Nagel’s interpretation of Rawls and as it follows from this interpretation of Rawls that global justice is a chimera, Sen

finally is left to choose between either a Rawlsian approach or a global idea of justice. The study acknowledges the fact that it has been a long time since the publication of Rawls' 1958 essay *Justice as Fairness*, that laid the foundation of his theory of justice, as an essay that has inspired and motivated not only Sen but also the later political theorist interested in this discourse. Interestingly too there has been a tremendous change in the world order and for Sen to be able to blind his eyes towards the urgent need for global justice was impossible, as he breaks with Rawlsian direction, in Sen's great work *The Idea of Justice*, dedicated in the memory of John Rawls.

Sen is certainly correct to think rather than creating atmosphere for perfect justice, the focus should be on removing the injustices from the world to make it a better place to live in. Yet the study finds out that by making a general shift – perhaps moving away from the social contract model while perpetuating justice to Amartya Sen's realization –focused perspective, will resolve the genuine practical problems posed by the existence of serious injustices, and their going unaddressed. However we find and explicitly recognise the possibility in Sen's notion of justice and finds out that Sen's capability approach can be seen in the form of evolution of the “much-awaited” Human Development Report, which is published annually by the United Nations Development Programme (UNDP), since 1990, to consider development problems in both poor and affluent countries.³³ Besides Sen's contribution to the field of development and welfare of the people can be seen practically through the devices and tools which acts as a measuring index in the global scenario.³⁴ Further Sen believes in collective reasoning as the best route to secure greater inter- and intra-generational justice. In that context, the Copenhagen Summit in December, 2009, explains how

Sen's idea of justice works in practice.³⁵ Moreover, institutional structures like the, governments, international organizations, non-governmental and civil society organizations, despite having competing moral frameworks have agreed and reasoned together (similar to the Sen's flute example) on how to adjudicate the different values and state of affairs to solve cases of injustices. In the context of climate change though fundamental disagreements about a 'just' resource allocation has arise, a partial agreement and not a binding law, about the perspective that a world with less carbon emissions is better than the current one, even though to what extent exactly carbon emissions should be reduced has not been finalised.

As the research works seeks to analyse the implementation aspect of Sen's notion of justice, hence the present study deals with its practicality (specially in chapter IV) and notices several limitations in Sen's approach to justice, not only in this globalized world, but also in a multicultural society (like that of India) dominated by religion and superstitious beliefs of the people. In fact a common question and critique is how Sen's capabilities can be translated into something that is measurable. As it is seen there is a tendency to measure functioning instead of capabilities. Martha Nussbaum agrees with Sen that the capability approach as a scaffold for examining social justice is far better than the utilitarianism, resource-focused analysis, the social contract tradition, or even some accounts of human rights.³⁶ Its implementation can be seen in the recent constitutional amendments in India that guarantee women one-third representation in the local panchayats, or village councils, directing the governments to undertake measures for full and effective empowerment of this neglected sections in order to uplift them and make them capable to face the obstacles.³⁷ However, she

argues that Sen's capability approach has given a rather ambiguous picture while dealing with the aspect of social justice, as he does not provide any definite direction on which capabilities are important in our ethical judgments and our conceptions of justice. According to her, without endorsing such a list, the capability approach cannot offer reliable prescriptions on gender justice. Nussbaum also holds that Sen's treatment of freedom needs to be more specific.³⁸ Moreover, according to Nussbaum, Des Gasper and Irene van Staveren, the concept of freedom, as elaborated in Sen's book, *Development as Freedom*, has been overextended, in that all the capabilities that human beings could acquire are to be understood as freedom.³⁹ This, according to them, can lead to confusion since freedom does not have this overarching meaning in everyday dialect. The study thus concludes that perhaps, Sen has, underestimated the value of capability, by giving too much prominence to the notion of freedom, ignoring the baggage that comes with the concept.

The study also analyses C.B. Macpherson's book, *Democratic Theory: Essays in Retrieval*, and finds out that, Macpherson too agrees that a list of human capacities is essential to any democratic theory. As a man's power is to be measured in terms of the absence of impediments, in relation to his capacities, his ability is subsequently measured as greater or less by the lesser or greater amount of impediments like –lack of adequate means of life, lack of access to the means of labour, lack of protection against invasion by others, scarcity of the means of labour etc.⁴⁰ Thus according to Macpherson any democratic theory must treat and measure an individual power in terms of (quantity) developing his capacities and measuring hindrances in using his capacities that is impediments to the maximum attainable in principle at any given

level of social productivity and knowledge.⁴¹ The study also finds that unlike Sen, Macpherson also refers to the transfer of human powers from one section to another, which adversely affects the freedom of people in a liberal democracy. However, Sen does not seem to be much concerned with any such impediments hampering the freedom of the individual, while talking about the capability approach.

This takes the study to a new insight, which concerns Sen's emphasis on the importance of public discourse and reasoning in scrutinising capabilities. Sen argues that in order for a society to decide on which freedoms and capabilities should be prioritised, there need to have public discussion. Although in principle it is very much useful as it promotes peoples participation beyond cultures thus strengthening democracy. However, the present study notices several obstacles in how this can be actually translated into action (especially in a country like India), and if it is exercised how effective it will be in giving a voice to the most vulnerable is still a question, given least importance by him.⁴² Thus, it is very much important that in order for the approach to truly foster social justice in a community, it is necessary to have active participation from all strata of the community. However, evaluating the history of India it can be concluded that religion is still a very powerful force in the social and individual life of the people. As Neera Chandoke has rightly argued that communities that have suffered from multiple historical injustices is not because they are economically deprived, but also socially backward, politically insignificant in terms of the politics of 'voice'.⁴³ Despite framing multitude of constitutional provisions, laws, and policies, (in fact institutions are also established) to repair historical injustices, all such efforts went in vein as the ideology of discrimination continues to be there in the

mindset of the people, strengthened further by the religious prescriptions making political upliftment and mobilisation difficult in independent India. Though, romanticizing the issue of Global Justice was the major drawback of institution focused approach in the Rawlsian tradition, which Sen vehemently criticized and hence de-romanticized it by giving an alternative realization-focused capability approach, based on moral considerations, the study however observes that the only problem Sen has continued to present his own alternative so romantically, remaining silent on the major issues of social injustices practiced in India, which has also made Sen's global notion of justice a chimera.⁴⁴

The study also highlights the fact that, Sen by limiting his notion of justice to comparative judgements about individual lives, fails to give due attention to the structural nature that effects the human life. While formulating the notion of justice, the character of the structures like, whether they are 'just' or 'good', whether they provide the environment for people to live a decent life, should be taken into consideration, in order to have effective implementation. Injustice is not only related to the freedom, resources or rights that people enjoy or achieves whether it is more or less in quantity and quality but also about the structures being corrupted and deviated from the good they serve.⁴⁵ Keeping in view the above perception, in India the notion of social justice has been enshrined in the Constitution of India through various provisions (the constitutional provisions to social justice in India has been discussed in Chapter II) with the aim of destroying the hierarchical social order of socio economic privileges. However, it is also noticed that in the recent times, with the onslaught of Globalization in India, a complete blind eye has been given to this notion of social

justice. The cases of farmers' suicide and growing caste based atrocities against Dalits are some serious instances of this issue. In fact, Amitabh Kundu acknowledges that due to modernization and globalization, the social values and customs as well as the market structure which was nationalised and subsidised, have come under tremendous pressure to privatize and focus on profit making thus hampering the socio-economic relation failing to uplift the marginalised groups.⁴⁶

The study while assessing Sen's notion of justice in the present era of globalization also finds that as the market economy is controlled by big private enterprises with the sole motive of making profits. Therefore, if we leave in the hands of market economy (as Sen has argued) to generate different prices, terms of trade and distributional patterns, to what extent it would be beneficial for the poor and providing social security to the commons, will remain a question.⁴⁷ Sen recognises the failure in institutional structures, the reason behind continued inequities in the global economy.⁴⁸ However, Sen fails to take into account how the private firms influence the framing of the domestic policies. Besides, in this era of globalization private companies have entered in each and every fields (like the education, health care, facilities for credit etc.), which has made the notion of public responsibility a myth. It was expected that equitable distribution and social justice will be secured as progress in the economy will eventually benefit all members of society, but the opposite happened. In reality, it was seen that the economic growth in India was not the growth of the majority, the deprived and the destitute, rather was the growth of the few, the Indian capitalists or billionaires and the international companies. As Joseph E. Stiglitz

argues that, in country like USA, ‘Justice for All’, is replaced by ‘Justice for those who can afford it’.⁴⁹

Sen’s emphasis on understanding and uplifting the lives of the people and focusing on the fairness of global arrangements, (rejecting the questions like whether poor are getting poorer or rich are getting richer) fails to address a simple question-how to strengthen democratic process at the global level. As it is seen that, the international organizations like IMF, WTO, that controls the global trade and economy of the states are not transparent, further the institutions are not democratic, provides no freedom of information act, so the pace of globalization should be controlled in order to give societies time to adopt.⁵⁰

Form the study of analysing the practicality in Sen’s notion of justice, it may be concluded that the distinction he draws between transcendental justice and assessing injustice here and now is overdrawn. While evaluating and assessing the various provisions of the constitution and the amendments undertaken in the subsequent times all vehemently highlights and perceives an ideal of equality of status and equal rights for all persons that originate in transcendental principles of justice. Sen also needs to illustrate how to make exercise a democratic transnational civil society that can foster and reform the institutions and the behaviour of the individuals in order to develop the capacities and capabilities of human beings, which seems to be the ultimate objective of his notion of justice.

In the fifth Chapter, the study while revisiting Sen’s notion of justice finds that, we do not need a theory of perfect justice to condemn extreme poverty, premature and

avoidable mortality, or state repression of those with religious beliefs as unjust. While analysing whether the transcendental approach is sufficient to carry out the comparative exercise, Sen finds that the Rawlsian approach fails to minimize the distance of the social states from the ideal one and thus is not feasible (for the reasons explained in Chapter 3) and therefore rejects the sufficiency argument. However the study reveals a sort of ambiguity in the departure from the ideal state, as there seems to be variety of means in which the transcendental approach can be considered as suitable for the comparative exercise. However rather than focusing on the distance between both the perspectives, the focus should be on the principles and methods undertaken as an evaluative means for the transcendental exercise, and ask whether those principles are sufficient for the comparative purpose as well. If we receive a positive answer, then the transcendental approach can be regarded as fundamentally sufficient for the comparative exercise. While evaluating Sen's own analogy of comparing between the picture of a Picasso and a van Gogh, the study found that though Sen is right that we do not need an ideal theory to adjudicate and present, *Mona Lisa* as the best painting in the world for the purpose of the comparison at hand, but that does not in itself wipe out the importance and position of *Mona Lisa* in this context.⁵¹ If for a time being we assume to agree on deciding to set a criteria through which we can evaluate whether *Mona Lisa* is indeed the best painting in the world. The same criteria can also be applied to compare between the paintings of Picasso and a van Gogh? If this is possible, then we can derive and arrive at a conclusion that the transcendental 'theory' of painting is also sufficient for the comparative purpose. Further, the theory of justice that Sen has presented to the world, embracing many

pluralities ignored by mainstream theory, can be broaden and elaborate its dimension by including not only the comparative exercise, but also the transcendental evaluations while redefining his idea of justice.

Debra Satz while analysing Sen's capability approach, considers the question of gender inequality and finds that there is a great deal of disagreement not only on how to characterize this inequality but also whether there is anything that is unjust about it.⁵² Satz argues that, we will receive different suggestions and results for improving the unequal social position of the women depending on the variety of our evaluation pattern and understanding of the phenomena and also on the social situations on which we are actually standing. In fact the study raises the points that, such a situation might arise when a person can never figure out which ranking to select or which superior position to move, among the various alternative available for him, without working out his own conception of what 'perfect justice' entails.⁵³ There are times when we need a Mona Lisa to guide our judgments about Picasso and Dali. Thus the study analyses that Amartya Sen's criticisms of perfect justice as finding difficulty in figuring out what to do in complex non ideal cases has been the central point of the beginning of his idea and the departure of Rawls's theory.

Moreover, the study also highlights that Sen has illuminatingly discussed the enormous difficulties of achieving a perfectly just society, but that does not take away the importance of searching and establishing ideal principles of justice. Certain systematic procedures need to be followed while going from such ideal principles to a perfectly just society and this being one of the main drawbacks with the transcendental

approach. Besides Sen argues that in contemporary societies due to plurality of values and reasoning, therefore there can be different descriptions of a perfectly just society or even with no agreed description at all. Thus Sen doubts the ‘uniqueness’ or even the ‘existence’ of a perfectly just society.⁵⁴ Osmani argues that there is no fundamental difference between transcendental theory and Sen’s own comparative exercise, because there is no certainty that comparative exercise will succeed in ranking alternative state of affairs and so in a way would undermine the uniqueness or existence of a perfectly just society. Besides, the non-uniqueness or the non-existence of a perfectly just society is but a special case of the persistent incompleteness of appraisal that Sen speaks of. Accepting this incompleteness if it does not disregard Sen’s comparative exercise, we cannot also disregard the Rawlsian transcendental approach either. Taking in the line with Sen, that if it is impossible to define a perfectly just society, we can still maintain the transcendental principles of justice and therefore leave it for further research and enquiry on assessing to what extent these principles can be applied to the comparative framework. However, going a step further it seems a priority to practically apply it. As there is no such radical difference between the transcendental and comparative exercise (both being the most influential approach to justice) and so if we move a level further than that distinction, at the level of principles seems to disappear. In fact, the study finds that, the framework of reasoning that Sen, has applied while formulating his comparative aspect of justice can also be used by any given society to understand and evaluate the qualities of the perfectly just society it would like to achieve. If this argument is accepted, one would

have to conclude that by exercising his approach particularly to the comparative exercise, Sen might have undersold his theory of justice.

While practically analysing Sen's notion of justice beyond India, the study going a step further, finds that, a noted African philosopher O.A.Oyeshile, in his article, *Sen's Realization- Focused Notion of Justice and the Burden of Democratic Governance in African Societies*, while trying to implement Sen's perspective in the African societies reveals that for the success of democratic governance in Africa would require, apart from establishing just institutions, a sense of community, democratic spirit, accountable leadership and responsible citizenship whose rights implies duties.⁵⁵ He argues that, all these have been lacking in the African continent and has therefore made democratic governance there difficult. In many African countries the individual interest is given prominence rather than the interest of the commons. In most instances, individuals are bigger than institutions, as these are used to fulfil the vested interest of the dictatorial leaders who controls and formulates its rules and procedures for functioning. Therefore, in order to sustain the plural demands of justice, which form the foundational of Sen's realization-focused notion of justice also need the enhancement of democratic governance in Africa (like, a sense of community, democratic spirit, accountable leadership and responsible citizenship whose rights implies duties), which has been lacking vehemently, ultimately making Sen's notion of justice impractical.

While looking at both the approaches of justice (Rawls and Sen) in terms of idealization of persons, public discussions, a well ordered society, identifying the role

of justice, the present study also concludes that none of these idealizations makes genuine difference both the paradigms, in the context of what justice requires here and now, in the present situation. As justice for Sen requires the realization of individual capacities and differences that are or would be acceptable to ideally defined impartial deliberators, which are formulated and discussed publicly and such outcomes are implemented. For Rawls too, what justice here and now requires of us is formulating certain principles of justice chosen under a hypothetical situation of free and equal individuals creating an ideally just society. Unlike, Sen the individuals in the Rawlsian situation are ideal, who determines the principles of justice face a problem of applicability in the present situation. This is the difference between both the paradigms (Sen and Rawls). But the study finds no huge difference about the scope or applicability but rather of the situations and evaluations, while formulating principles of justice, determined by persons under their respective conditions. Thus the focus of any relevant account of justice in political philosophy should not be on the question of redundancy or providing an alternative, but rather should be on offering a conception of justice that is reasonable and true in assessing issues of justice in the present scenario.

The study hence tries to propose reconciliation (discussed in chapter V) between the two paradigms (Rawls and Sen) of justice by taking the notion of urgency or importance as criteria, also emphasized by post Rawlsian, Sebastiano Maffettone. Maffettone argues that the notion of urgency advocated by Thomas Scanlon can act as an attractive bridge between the views of Rawls and Sen.⁵⁶ Urgency implies a criterion through which we can objectively discriminate among strong preferences.⁵⁷ This can

be seen when we compare between two sets of value- like health and amusement. We definitely will give importance to the first one (that is health), likewise we can hypothesize and determine various levels representing separate levels of well-being. Thus we can investigate further on this possibility of reconciliation between the paradigms of Rawls and Sen that have been discussed above. We should also give importance to the context under which the theories of justice originated, like the Rawlsian theory is inevitably tied to its USA origins. In a country like the USA, protecting liberty at any cost and means is perhaps the most significant goal unlike the situation of India and African, where liberty is at times sacrificed for food or survival. However this does not signify that Rawlsian justice can be applied only in ideal conditions.⁵⁸ This implies that whenever we change the context of Rawlsian paradigm to implement it in other parts of the globe or to a particular region, we should be cautious in redefining the relation between persons and institutions. The study also perceives that to some extent this is what Sen also recommends.

Finally the study while trying to go beyond Sen's notion of justice suggested certain adjustments within the existing arrangements of a liberal democracy (without seeking a radical alteration to it), also proposed by Dhiren Bhagawati in his article, *Beyond A Deontological Theory of Freedom*, while analysing the Rawlsian distributional principles. Though Bhagawati acknowledges the fact that such a rearrangement would violate the very spirit of Rawls' liberal philosophy, but then only it will practically benefit the least advantaged sections of people in the society and add some value to their imagination and desire of a better society.⁵⁹

Keeping in view the above directive, while trying to recast the liberal theory to dispel justice and ensure freedom to each and every individual in the society, reconciliation between the principles of Rawls and Sen can be made by incorporating Sen's capability approach in the Rawlsian second principle in order to make justice more achievable and practical. While thinking of justice in a traditional society like India, where religion preoccupies people's consciousness, conservative forces erect an edifice of religious ideology to prevent radical ideas seeking progressive changes from reaching the mind of the people; the capability of the people should be measured and given emphasized while formulating principles of justice. Hence a further proposal of rearrangement of Rawlsian principle will place social and economic inequalities subject to the greatest benefit to the least advantaged members of the society first; they being attached to offices and positions open to all under conditions of fair equality of opportunity second and measuring the capability aspect of the individuals while arranging the social and economic inequalities. While adding this capability condition to the Rawlsian second principle will help us to understand to what extent people are really capable enough to convert their resources into good living. It will also help us to understand the problems or obstacles in the way of conversion and will enable us to make necessary adjustments within the existing arrangements of liberal democracy, to ensure people justice while removing injustices. In fact, Rawls too believes that a society only treats its members as equal moral persons when the basic structure satisfies its requirements, providing everyone with a minimum necessary level of moral power--- that is, the bases of equality (and equal opportunity) and the social bases of self- respect. Therefore in the Rawlsian theory of justice, one of the major

question, that has relation with is, who the individual person in a society –is- thus here Sen’s capability perspective can be helpful in looking at the individual’s actual freedom and the opportunity aspect.⁶⁰ As for Rawls if individuals associated with the economic process are free and equal, then only the result that comes out from the distribution course be termed as just and fair. So precisely, because of this particular comprehension of distributive justice, the capability aspect can act as a necessary tool or element in understanding certain necessary equitable conditions of the actions of individuals and associations. However, to what extent, it can be really implemented and made functional, while making necessary adjustments within the liberal principles have been left for further research and enquiry.

Sen himself said in his recent work, *The Country of First Boys*, that, ‘Justice, it has been argued, should not only be done, it must also be seen to be done’.⁶¹ Thus the most basic thought that lies behind all these discussions is that the productive work in ethics or politics must be practical in its objective and therefore should bring into attention the interest of the agents involved in the working process, rather than the interest of those who are appreciating and making false promises and comments (being mere audience) that has already been done. Formulating an alternative approach to justice, differentiating it from the traditional notions, Sen’s idea of justice has been heralded as a theory of justice ‘for an imperfect world’, as ‘dedicated to the reduction of injustices on earth practically rather than to the creation of ideally just castles in the air’. But despite the dual ambition of practically implementing political philosophy to the actual lives of the people, with the intention of limiting the gap between the institutions and people’s realisation through the instrument of public reasoning and of

centering justice to the heart of development thinking, Sen's notion of justice however, in practice does not do much in the real world, beyond generic references to famines, gender injustice or malnutrition. As an individual in Indian society plays his/her social role according to his/her social standing, as such it is seen that the distributive justice (being the dynamic force behind social justice) fails to achieve the desired objective within the prevailing caste hierarchies, deeply entrenched caste relations and religious affiliations practised in various parts of India. Besides, the state in this current era of globalization has abandoned its distributive functions and has transferred its power to the capitalists, making social justice dismal, despite legislating welfare laws and adjudicating measures to deliver social justice. As Hiren Gohain while analysing the depleted condition of human security in North- East India argues that:

NE India has fallen under the shadow of such inhuman conflicts as to contaminate the entire State and society with rank injustice and brutality. A prolongation of such agony is negation of politics.⁶²

In this changed world, the concept of social justice at a new dimension needs to be explored. For this realization in its full dimension, it is necessary to have an appropriate approach towards the understanding of social reality. As David Miller argues that the, 'question of global justice is a question about which set of institutional arrangements will bring about a globally fair allocation of rights, opportunities, resources and so forth'.⁶³

Perhaps the sole objective of the democratic institutions is to ensure that the policies and processes initiated for the people through their instrumentalities serves the humanity by establishing justice, fulfilling the interest of the commons in the best way

possible. However, in this globalized world, where market economy has gained controlled over the entire human spectrum, the public voices which gets representation in the institutions like media (also capable of inspiring and animating the mankind), has become incapable of serving the common good. The glorious promise of infinite growth, fulfilling interests of the multinational corporate have perpetuated inequality on a global scale, making the entire society vulnerable to social injustice. However the history of humanity has shown us that, human powers can be oriented in building better and more effective social organisations, through new conceptions and practical orientations, based on cooperation and collaboration and not on the sense of competition and self-interest.

From the above analysis it can be concluded that the drive for a ‘perfect theory’ actually manifest from within our everyday comparative and evaluative thinking about what we should do while adjudicating the complex cases, making further the line of distinction between comparative assessment and ideal theorizing thin, thus going against Sen’s prescribed direction. Although we cannot totally ignore Sen’s argument that the work done in the domain of political philosophy is practically disconnected from current struggles and aspirations. However we also cannot conclude and term all such work as unnecessary or redundant. In fact Sen’s own approach lacks in-depth discussion of any significant cases, except generic references or certain issues where agreement on delivering justice, or ‘removal of manifest injustice’ could be plausibly expected, such as on the removal of illiteracy, women’s exploitation, malnutrition, racism, etc. However, in order to remove such cases of injustices, we do not need a theory, as earlier theories has also emphasized on

eradication of such evil practises. Thus we have to set the limits to what extent possible between theory and practice and make the discourse of social justice really feasible and achievable for all. However, to have a practical orientation, an overall conception of what justice requires is necessary to formulate. We need to develop a general account of justice to become clear about our priorities, about what is more or less important as a matter of justice, and about how our seemingly divergent intuitions fit together.

The concept of social justice will remain in focus till the existence of human race in the context of extensive failure of individuals and institutions to establish just social relationships and equality in society. The present study recognizes the fact the though Sen admits the importance of Rawls's approach, its influence not only in his work but also on the later philosophers and the proximities between both the paradigms of justice, however cannot disregard the theoretical dissonances and its importance in political philosophy. The study also acknowledges that despite certain shortcomings analysed in the chapters, the positive part of Sen's work emerged as a highly original conception of justice in many ways challenging the idea of *justice as fairness*, contributing vehemently to the discourse of social justice. Keeping in view the above directive, the notion of justice offered by Rawls and Sen, have their distinctive significance, especially as these thinkers have tried to grasp the complexity of the problems discussed above; and at the same time identified solutions of lasting value, capturing the attention of both the academia and policy makers. The study therefore concludes that as both the theorists have offered different lenses on the issue of social justice a comparative analysis of Rawls and Sen has become important

besides establishing an reconciliation between both the perspective, in order to have a more practical and realistic assessment to the paradigm of justice, to build a better world, a better future and a better humanity.

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