

CHAPTER I

INTRODUCTION

Justice has been one the most contentious and debatable issue which has evolved from an idea to a movement. We generally discuss justice and injustice in a particular trial, where we think some individuals have been falsely condemned as guilty, ignoring the basic human rights of that person. Moreover, the concept of justice and injustice always centres the discussion when the question of distribution of wealth or resources comes within a society or a community. As we all know that in order to provide security to the people and delivering justice, the democratic state is given the sole responsibility because unlike the Non-Governmental Organizations (NGOs), representatives of the civil society groups or any other political or social organization, it represents the majority of the section. Though it is seen that, in the recent years, the initiatives undertaken by the state in the name of development and providing security to the people, has on the contrary witnessed series of mass movements and public protest demanding justice. However, justice- specifically 'Social Justice' has come to dominate political thought over the past few decades. In order to distribute the limited resources between individuals within a political community, having similar and competing issues have become pivotal in the arena of political philosophy, engaging various philosophers at different times, complicating more the concept of social justice. Complementing this, as there has been a paradigm shift in political doctrine from redistribution to recognition, the concept of justice has become much more

problematical. As such, concepts such as rights, liberties, equality, needs and deserts have been accommodated into justice's sphere which has increased its influence in political philosophy. Yet in spite of more than 2000 years of consequent political engagement in theory building the concept still has no established meaning.

Statement of the problem:

In political philosophy the question and discussion on justice cannot be omitted, whether the concern of the researcher is in the area of value-free theoretical analysis or in that of the assessment and recommendation of rules, procedures and institutions. The sphere of social justice, which is the zone of our apprehension, is informative as it shapes the basis of life in society. Throughout the ages the concept of social justice has been discussed, 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 areas. However, the first and most eminent, orderly exposition on political philosophy, Plato's *Republic*, was extensively both an analysis into the real nature of justice and a construction of a perfectly just state against which existing empirical states could be evaluated.¹ New paths and methods of thinking and analysing about justice emerged, associating deeply within the spectrum of the modern nation-state, due to the changes in Europe brought by Renaissance and Industrial Revolution, secularizing lives of the people. As such it was seen that, portraying perfectly just institutions had become the vital exercise in the modern theories of justice. 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. With the publication of John Rawls's book in 1971, political philosophers and scholars have tried to passionately embrace the normative exploration of justice.² 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 advantaged persons (the marginalised people) thus making the procedure fair and just. Thus Rawls's 'Justice as Fairness' emphasised on getting the institutions and general rules right.³ However, in the existing scenario, 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. As John Mandle has argued that, although it is also imperative to emphasise, that besides the institutional justice, there are non institutional duties that we owe to one another simply by virtue of our common humanity.⁴

Thus the demands of justice (in terms of principles of justice) cannot be formulated by focusing only on just institutions or on distributing the primary goods, thereby ignoring the broader outlook of social realizations of the people.⁵ Under such

an circumstance, an alternative having an influential and significant analysis of the idea of justice is 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. As Sen argues that:

Nothing can be justified in the name of freedom without actually giving people an opportunity for the exercise of that freedom, or at least without carefully assessing how an opportunity of choice would be exercised if it were available.⁶

Unlike, former theories of justice that endeavour to limit the questions of justice, to the nature of perfect justice; the central theme of Sen's theoretical proposal is to eradicate manifest cases of injustices.⁷ It can be seen in his book, *Poverty and Famines*, where Sen analyses the causes of starvation in general and famine in particular through various case studies in various parts of the world (the Great Bengal Famine of 1943, Ethiopian famines of 1973-75 etc.) and has come to the conclusion that poverty is a very significant problem and not that simple as is it seen and so the actual causes of deprivations need to be understood and removed.⁸ 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 tries to analyse critically the practicality in Sen's notion of justice in the present world (especially in Indian context), keeping in regard, Rawls's institutional perspective and Amartya Sen's realization focused perspective. Further

attempt at exploring the notion of justice thus has involved considerations of these two broad theoretical positions in details.⁹

Sen provides a detailed critique of universal accounts of justice and advances the idea of value pluralism within the design of social justice.¹⁰ He 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. Sen argues that there are different values (which he terms as value pluralism) which are running in various parts of the globe and so the arguments provided by the libertarians, utilitarian's, egalitarians and the like are valid in the sense that they help us and contribute towards the understanding of justice.¹¹ As each and every value has its own importance and none overrides the other hence we cannot give universal weights to those values contributing towards the general theories of justice. Thus mechanistic calculations are impossible to arrive at as each theories of justice have its own value and thus cannot be termed only one value as ideal.

Sen in an article written in 2006, *What Do We Want from a Theory of Justice?*, concluded that political philosophers should categorically end chasing, in the style of Rawls, the grand question, what a just society should be. However, there is less doubt that the tradition of theories of justice that Sen has in mind has been positioned and dominated by the spirit of John Rawls from which he has learnt so much, hence Sen endeavours to put forward an alternative to the dominant theory of justice by critically engaging with it in his book, *The Idea of Justice*.¹² Sen differentiates between 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 effect the lives that people are actually capable to lead), wherefrom he draws the idea of realization perspective on social justice.¹³ 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 concerned for a theory of justice and thus provides a better understanding for justice. It should also be mentioned 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.

Moreover, Rawls argues in the opening pages of his book, *A Theory of Justice*, that his aim is basically to derive principles of justice for a ‘well ordered society’, that is society of ‘strict compliance’, where the objective of each and every individual is to act in a fair and just manner to create a perfectly just society. Sen considers this as a *transcendental institutionalist* perspective to justice, categorized by the focus on perfect justice, thus overlooking the non-institutional aspects of human relations, which in practice, and would determine how actual societies would function.¹⁴ Thus what differentiates Amartya Sen from earlier theorists was that his evaluation of justice 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. Sen wants it to be based on practical reasoning in order to make his demands for justice much more feasible.

Finding many features of Rawlsian theory troubling, Sen argues that Rawls's emphasis on the importance of 'ideal theory', that is to create a notion of justice which is universal in nature and applies everywhere and at all times, is neither possible nor necessary. In the introductory part of his book, *The Idea of Justice*, Sen tells the engaging story of three children, Ann, Bob and Carla, who are quarrelling over the fate of a flute.¹⁵ 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. What 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.¹⁶ Therefore it would 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 idea 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. As discussed earlier, in the case of which of three children should be given a flute, he suggests a libertarian would likely give it to the child who made it, an economic egalitarian would give it to the one who was the poorest, and a utilitarian would give it to the one could play it. However, in

order to assess just outcomes, Sen points out that the claims of each of these unbiased rationalities and others need to be measured. Further Sen's social choice approach stresses on the need to move outside abstract orientations of freedom to whether in fact each person has the capability to realize this freedom given his political and socio economic situation. Besides, he also emphasizes the contributions of other articulations of freedom, such as not being relying on outsiders and non interference from others.¹⁷ 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.¹⁸ Sen further emphasizes that Rawlsian conception of primary goods is not constitutive of freedom as such, but is best seen as means to freedom.

Sen vehemently focuses by providing examples of various cases of injustices in society such as slavery, the discrimination of women, the lack of universal healthcare in most countries of the world, the lack of medical facilities in parts of Africa or Asia, the tolerance of chronic hunger, for example in India, and the extreme exploitation of labour can all be recognized, besieged and removed without any need to hypothesize at all as to what would be perfectly just social arrangements or what would be just institutions. Sen in his book, *The Idea of Justice* has emphasized (also being an advocator of Social Choice theory), that we cannot attain justice by making an equal distribution of primary goods or benefiting the least advantage sections by giving them some special privileges, we have to go beyond it as justice cannot be indifferent to the lives that people can actually live.¹⁹ In an article written way back in

1990, entitled, *Justice: Means versus Freedoms*, Sen articulated a freedom based idea of justice. Making ‘capabilities’ as the most appropriate method for assessing wellbeing rather than the utility space or Rawls’s primary goods, Sen in his 1979 Tanner Lectures, and more expansively in his Dewey Lectures, argued that capability can provide more appropriate informational basis for justice. Sen agrees that an index of primary goods signifies a vector, which is why it comprises more than income or wealth, but cannot act as a useful tool as it is still directed to serve the general purpose, rather than analysing the individual differentiation. Sen alleges that this is incorrect because what really reckons is the way in which different people convert income or primary goods into good living, as poverty is dependent upon the different characteristics of people and of the environment in which they actually live.²⁰ Thus capability is being related with substantive freedom as it centres on the actual ability to do different things that a person value, further Sen calling Rawlsian theory as redundant.²¹

However, Sen was conscious of the facts that, in diversified and multicultural society citizens will definitely have different voices and interests and also will have different choices; hence citizens will apparently differ as to which conception of political justice they think most reasonable. Sen here therefore pursues an approach that is based on open impartiality, favouring Adam Smith’s ‘impartial spectator’ rather than Rawls ‘veil of ignorance’, which he calls ‘closed impartiality’, as Rawls account considers only members of the given focal group.²² 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. Adam Smith terms this spectator one as ‘the man within the breast’, allows us to assess our own conventions in the light of the criteria afforded by our cultures.²³ What differentiates the Rawlsian method from the Smithian approach is the ‘closed’ nature of participatory exercise that Rawls invokes by restricting the ‘veil of ignorance’ to the members of a polity that are being constructed.²⁴ Sen on the contrary to Rawls’ traditional concept of ‘primary goods’, rebuilds his own capabilities approach as elements of his theory of justice by borrowing from the social choice theory. Sen while assessing the notion of justice builds its own concept at this time, when he adopted the comparative method (comparing the values and priorities of the people and ranking them after proper scrutiny and public reasoning) in order to make the demands of justice much more possible to achieve. It means that a theory of justice has to be based on partial orderings (through ranking the alternatives based on the connection or commonality of distinct rankings portraying different reasonable positions of justice), that all can endure the scrutiny of public reason seen in any democratic structure. However it should also be mentioned that, the writings of Adam Smith, Condorcet, Bentham, Karl Marx and J.S.Mill has significant influence on Sen’s comparative route, as Sen himself has argued that all these theoretical approaches share the core objective of making wide-ranging comparisons of justice between the different lives that people can lead.²⁵ Though 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.²⁶

Sen makes his argument more clear when he uses another analogy. Sen argues that, when we were asked whether a Van Gogh or a Picasso is the better painting, it barely helps to be told that Da Vinci's Monalisa is the best painting in the world.²⁷ Though this analogy does not makes the picture clear as what comprise the best painting, but what Sen here wants to point out is that in order to practise justice we have to make comparisons, meaning whether pursuing that method will help make the world a somewhat better place as opposed to that method, unlike the ideal world (as emphasised by Rawls) where this process for comparison has a very limited scope and platform. Sen's comparative approach and its practical applicability or relevance can be recently seen, when thousands of people came out to the streets in various parts of the country to protest against the growing crimes and sexual harassment against women in Delhi. Thus preventing such injustices were ranked on the basis of comparative judgements and fair and reasoned agreements among people on top priority (when people realized the importance of curbing such crimes) and so individuals from each and every sections of the society spontaneously came out to the streets to remove such injustices.

Throughout his book, *The Idea of Justice*, Sen invites us to engage in public reasoning in order to achieve justice, not by reference to some kind of ideal, but in very practical ways, comparing the impact of particular policies, and reflecting on the way things are done in the name of impartiality and fairness. Sen does not act as if to offer an ideal in the style of Rawls, but rather to introduce certain habits of mind. Therefore, Chris Brown argues that Sen has given us the method to reason impartially and non-parochially: meaning we should not assume that our particular way of doing

particular things is the ideal way, as such we need to analyse our preferences and practices with the line of Smith's impartial spectator approach.²⁸

What makes Sen's notion of justice realistic and essential is his emphasis on the social realizations of the people while delivering justice. Unlike the earlier thinkers who focused on creating perfect institutions and just society, Sen constructs his theory of justice on the lines that people can actually live and achieve (focusing on the actual freedom and capabilities that people have), hence emphasizing on the reasonable behaviour of the people who makes a candid examination of the demands of justice after discussions and scrutiny. Kant argues that, for some rights to be effective, there must be institutions to uphold them, Sen on the contrary believes that justice cannot be hampered by the institutional structures which are slow in progress and as such justice has to be practised and seen among the concrete human beings.²⁹ Justice is what people analyse and obtain through public reason and thus also need not depend only on institutions to function and achieve. Thus Sen tried to remove first the injustices from the society and bringing justice in the hands of people, providing a more practically oriented approach to justice.

In the present world, global dialogue which is vitally important for global justice is pursued and obtained not through formal institutions like the United Nations (U.N) but broadly through political agitation, protest movements and through the committed work of citizens organisations (like the civil society groups).³⁰ Sen has emphasised that the challenge today in front of us is to build up and strengthen the existing functioning participatory process (like the public protest, open discussions,

news commentary) on which the pursuit of global justice will to a great extent depend.³¹ The common sense idea of justice will always be there and present in the minds of the people, which cannot be eradicated easily, though people will apply different means to achieve justice. Sen's relevance of his assessment of justice can also be seen in the context of Assam, where people and the various civil society groups are protesting against the construction of Big Dams in the earthquake prone areas of the state. Here they were not protesting for creating an ideal Assam, which is free from all the evils and malpractices, but (despite a continuing divergence of views among the people on other matters) are agreed and protesting to remove such injustices which they have reasonably realized as evil are practised in the name of development, thus making Sen's notion of justice much more broaden. Thus in order to articulate the idea of justice, the bond between public reasoning on the one hand and the demands of participatory social decisions on the other, is pivotal and hence need to be strengthened, to make democracy a practical and real so that people can enjoy its taste.

Interestingly too, Sen's notion of justice, which is pluralistic, multi-dimensional and existential because it is an arrangement of various aspects of what can be called variables of justice, in our own view, has given a new direction in the arena of theorizing social justice. He rejects the view that the answer for an exclusionary approach to justice is a demand to a global original position that supports a cosmopolitan contract in favour of a pluralist view of the diversity of sources of relevant reasons.³² Rather than dreaming of including everyone in a world state, Sen argues that we should concentrate on reasons wherever they may come from, not only

from the known sources but also from the unexpected quarters and give suggestions accordingly. Sen is definitely correct to believe that comparisons of relative justice and injustice should also be a major concern to move from an ideal theory of justice to a workable idea of justice. Yet it is not wholly acceptable that the existing genuine problems seen in various parts of the globe and their going unaddressed will be solved by some general shift – perhaps moving away from the social contract model while perpetuating justice. Moreover, the definition of social justice is still not a settled one and the principles conflicting but the practical aspect of social justice cannot be ignored, as such David Miller has emphasised that the practical relevance is necessary for a theory of social justice which is right and in order to have universal validity.

Sen's ambiguous relationship with liberalism, and calling into question the fundamentally deontological notion of justice that he finds in Rawls and putting forward more of a consequentialist approach (a key feature of utilitarianism) with his comparative approach to justice and assessment of states of affairs in terms of their consequences of people's wellbeing through the method of public scrutiny has created a new road map towards global justice.³³ The key aspect in Sen's account is how we should approach justice is by public reasoning and deliberation. For that reason, he has placed democracy at the heart of his account of justice. For Sen, democracy, in order to deliver justice on ground and create a just society must go beyond the niti (procedural) aspects of ballots and elections to freedom of expression, the right to information, and the practice of public discussion.³⁴ The importance, in this context, of a free media and of parliamentary democracy for the pursuit of justice is supreme. However, he is also aware of the fact that democratic procedures do not ensure just

outcomes, and observes that though in the constitution there is place for fundamental rights and protections of minorities, but people are always exploited and discriminated. In his book, *Engaging Freedom*, Dhiren Bhagawati, distinguishes between majoritarian and libertarian democracy and emphasizes how libertarian democracy pursues a narrow and limited scope to individual freedom.³⁵ He argues that the real democracy is when people gets the opportunity to participate in the life of the community as its equal members and gets the opportunity to express their voice in the formulation of public policy. However, analysis's like John Dryzek, one of the major thinkers in deliberative democracy, have criticized Sen for a 'facile treatment of Democracy', in the sense that it seems institution-free and does not discuss who should participate in discussion, how this process produces outcomes, and so on. According to Dryzek, Sen thinks of deliberation in terms of public reason (singular), and thereby places too much emphasis upon logic and reason in deliberation.³⁶ Dryzek points to those who suggest that such an idea of reason diminishes the views of those who find it harder to articulate their viewpoints. Besides, it is also not clear that any agreement where people agree partially through orderings will rank actual social arrangements as more and less just. As such the question again arises that, why should public reasoning, rather than focusing on institutions, on configurations of rights or duties that need to be implemented, will focus on removing manifest cases of injustice. Onora O'Neill believes that, Sen seeks emphasis of these welcoming claims about imperfect as well as perfect obligations, and his argument probably directs further than he explores; as such it rules out drawing any very clear boundary to justice.³⁷

In the present era of Globalisation there has been improvement in information and technology and with the increase in people to people contact and exchange of ideas and values, protests and injustices in one nation will obviously have more or less impact on other nation. The recent democratic uprisings in various parts of the world against terrorist atrocities and fight for their basic human rights is a sign of Sen's rightful assessment of the idea of justice where people are agreed and protesting to remove the injustices from the society which will ultimately enhance global justice. However the problem that has arisen is that the world in where we live has so much of deprivation of one kind or another (like about 30% of the population of India live below poverty line), can the actual lives of the people and their conditions be realized while articulating Sen's notion of justice. It is also seen that the forces of globalization like the, Multinational Corporations (MNCs) and financial donors, have created new forms of disparities and have widened the gap between rich and poor, while exploiting the deprived sections.³⁸ Justice has not been ensured to significant sections of population in underdeveloped societies and indeed we found new forms of injustices haunting the plebs. The Indian State has applied all coercive laws in the region like Armed Forces Special Powers Act (AFSPA), National Security Act (NSA), etc., to ensure state imposed security. These laws have intimidated and left deep negative impact on the minds of the people in the region through alienation and violation of the basic human rights.³⁹ Moreover, it is seen that there is decrease in the level of people's participation in the political process, complimented by lack of education, and individuals becoming more self centred (in case of India where religion and superstitious beliefs controls the lives of the people), the general pursuit of justice,

which is always present in the minds of the masses, about which Sen has emphasised might disappear, which will make his notion of justice difficult to achieve.

Though Sen's understanding of justice is related to the present scenario, however, it has given limited attention on how these exploitative forces can be dealt with while removing injustices from the society. Perhaps it is also seen that, Sen through the large part of his empirical economic research has discussed elaborately on the issues like inequality and freedom but on the contrary is complete silence on the subject of caste-based discrimination in India, and the present and historical injustices of the untouchables. Unexpectedly, Sen's major works such as *Development as Freedom* or even *Inequality Re-examined*, also fail to mention the persistence of problems associated with untouchability and the chronic poverty of that sizable community.⁴⁰ Sen is confident, perhaps too much hopeful, about the potentialities celebrated in a public reasoning, however it is seen that there are major shortcomings in the use of democracy in India. Sen argues that in order to remove these persistent social inequalities in India, which has deprived the subalterns both materially as well as intellectually and hence in order to remove such injustices, education should be given to them in order to eradicate them from this traditional deprivation.⁴¹ As such, societal stratifications related to class, caste, gender need to be addressed within the democratic structures through people's participation and engagement in the country, to eradicate the inequalities and deprivations and make people more capable to enjoy their freedom and liberty. Though Sen argues that in the diverse societies there will be differences in the ends and objectives of freedom and capability can help us to provide the correct information, but how will that approach practically work in the societies of

India where person's capability and freedom is decided and controlled by religious and superstitious beliefs, is still a question.⁴² Besides, problem will also arise as how to measure the capability correctly or adequately of the individual, when peoples' choices are determined by the social traditions and practices (like the Khap Panchayats in Haryana, where few people decide the future of the entire people living in those villages and can in fact take the life of an individual in the name of honour killing), the means and ends of freedom of an individual remains a far cry. In this sense, Sen's notion of justice will be practically seen if importance is given not only on the public discussion and protest movements, but also on the outcomes of this protest framed in some binding laws. Besides this the participatory process about which Sen has given emphasis, not only need to be boosted but also should accumulate the dissenting voices in it. However, Sen's explicit critic of the Rawlsian notion of justice, limiting it to nation states and his emphasis on public reasoning that should accommodate voices from different societies and cultures puts justice within the domain of the liberal marketplace of ideas now vehemently spread through internet and the other social networking mediums. As such it is seen that, though the practice of untouchability was made a crime under law by the Indian constitution, but is still practised vehemently in various parts of India. Thus the main accusation initiated against Sen is that his consideration on justice does not go beyond the structure of liberalism.

As democracy is a joint venture between those who controls the instruments of the State and Citizens, it is time that India gives ample space for democracy and its long cherished values enshrined in the constitution, to resurface instead of restraining the genuine democratic voice of 'we the people', which continues to remain excluded.

Deliberation requires the principles of political argument, namely, logically sound and dependable reasoning, and reasonable use of empirical evidence. As ballot and voting will simply decide issues, but is a preference driven process sometimes done unwillingly. Therefore the process of deliberation need to be active and should accommodate all the competing and critical positions. In that sense, Sen is surely right to place the emphasis upon public reason and the idea of justice. We have competing views and values, that is where pluralism enters; but we need a singular process of deliberation and comprehension, and a singular idea of social justice, if there is to be deliberation and social justice. Democracy according to Sen is not just as a formal institution for voting and elections, but more as an active environment where citizens can participate freely and express their opinions critically and independently. However this cannot be seen practically. A theory of justice has to take these issues seriously and see what can be done in terms of practical reasoning about justice and injustice in the real world. Freedom and reasoning are undoubtedly admirable starting points for thinking about justice and this should not be the end, but the beginning of this complicated journey, removing the inadequacies in democracy.

Importance of the study:

The proposed study is significant for different reasons. These are as under-

- 1) Sen's understanding of the notion of justice gives emphasis to social realizations and focuses on the actual lives of the people, so this study helps us to know to what extent his analysis can be practically implemented in the present globalised world.
- 2) The present study helps us to understand how Sen's assessment of the idea of justice is different from the earlier theorists (like Rawls) and thus builds his own separate paradigm in creating a global justice.
- 3) This study is also significant as it tries to critically evaluate till what extent Sen's notion of justice is possible to achieve in a multicultural and multilingual state like India, where religion and superstitious beliefs of the people (like witch hunting, untouchability), determines the lives of the individuals in the society.

Objectives of the study:

The proposed study considers the followings-

- 1) The present study evaluates how Amartya Sen's notion of justice has evolved over the years, reassessing it and bringing it in the present framework.
- 2) The study also critically evaluates if Sen's notion of justice which has focused beyond institutions can really create a global notion of justice based on public reasoning.
- 3) To emphasise how Sen's theory of justice is different from the earlier theories of justice (especially Rawls) and how far it can be possible to achieve.

- 4) While critically engaging with Sen's notion of justice, the study also tries to go beyond his notion of justice, and also search for reconciliation between Sen and Rawlsian principles of justice.

Hypothesis:

Justice is an enormously significant idea which has moved people in the past and will continue to move people in the future. Though the concept of justice still has no established meaning, but has been immensely discussed, debated and analysed by the philosophers in order to provide a way of advancing justice. It was perceived that the portrayal of perfectly just institutions and society was the vital exercise in the modern theories of justice, especially John Rawls, who rejuvenated the liberal democracy through his analysis of justice. 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. Thus Rawls 'Justice as Fairness' focused on creating perfect institutions through fair processes and rules. However can we really achieve justice by creating just institutions and society neglecting the non-institutional facts of human interaction, which in reality, and would determine how actual societies would function, is the question raised by Amartya Sen, who provides new insights to the notion of justice. Sen in his assessment of the idea of justice (while fully acknowledging the previous theories) emphasises on the broader perspective of social realizations of the people (rather than creating perfect institutions and society),

constructing a theory of justice that focuses on removing injustices by agreed judgements after proper public discussions, focusing on the actual lives and capabilities of the people and their need to participate in the political process to realise their actual freedom. Sen's analysis of justice is aimed not at identifying the character of just (whether it is just institutions or society) but rather to build an alternative theory that can act as the basis of practical reasoning, which people themselves understand thus including the ways of adjudicating how to reduce injustice and advance justice. The hypothesis will test whether the above theoretical statement can really help to create a practical notion of justice based on public reasoning, emphasizing on the actual lives of the people. However with the minimal level of peoples participation in the political process, contributed by lack of education and inadequate representation of dissenting voices (in case of India where religion and superstitious beliefs controls the minds of the people), to what extent Sen's realization- focused notion of justice be practically implemented, is still a question.

Review of literature:

A review of some of the works and articles are stated here:

Amartya Sen in his book, *The Idea of Justice*, mainly deals with a theory of justice that can serve as the basis of practical reasoning including ways of judging how to reduce injustice and advance justice rather than aiming only at the characterization of perfectly just societies. By acknowledging the works of Rawls , Sen in contrast to it took the comparative approach where he give importance to the different reasonable principles of justice that exist , focusing on the actual lives and liberties of the people.

Besides he discusses on creating global reasoning via institutions as well as less formal communications and exchanges and urges the people to escape from isolations. Being the primary source of my data it helps me the most in understanding Sen's analysis of the Idea of Justice.

John Rawls in his masterpiece, *A Theory of Justice*, provides an illuminate understanding of the notion of justice. In his book Rawls reconcile a liberal idea of political obligation with a redistributionist conception of social justice. Considering justice as fairness, his two principles of justice are the outcome of a fair agreement and hence need to be applied to the basic structure of social institutions. He also asserts in his book that the functions of the state is not only to maintain law and order but also to achieve distributive justice by putting the highest social value on the requirements of the disadvantaged.

Amartya Sen and James Foster in their book, *On Economic Inequality*, have presented a systematic treatment of the conceptual framework as well as the practical problems of measurement of economic inequality. Even though a large part of the book is devoted to analytical and mathematical reasoning, the recent developments in those areas and their bearing on the evaluation measurement of poverty are extensively examined. It will help me in understanding a totally new insight of economic inequality.

Amartya Sen in his book, *Poverty and Famines; An essay on Entitlement and Deprivation*, demonstrates how famine occurs not only from a lack of food but from inequalities built into mechanisms for distributing food. Sen here demonstrates how

Bengal Famine of 1943 was caused by an urban economic boom that raised food prices, thereby causing millions of rural workers to starve to death when their wages did not keep up. Besides this Sen points out a number of social and economic factor which has led to these starvation. In order to remove injustices from the society the actual deprivations which are prevalent need to be known and this book will help me to understand the real deprivations that people faced and how it can be tackled.

In Dhiren Bhagawati's book, *Engaging Freedom*, particularly in chapter 4 entitled, *Democracy and the People*, relates to my research work. In this essay the author distinguishes between majoritarian and libertarian democracy and emphasizes how libertarian democracy pursues a narrow and limited scope to individual freedom. He argues that the real democracy is when people gets the opportunity to participate in the life of the community as its equal members and gets the opportunity to express their voice in the formulation of public policy. It helps me to understand the democracy which is functioning and how it can be made better so that the people can enjoy their real freedom.

Michael Walzer in his book, *Spheres of Justice*, argues that the essence of the idea of social justice is to distinguish between the spheres of the distribution of social goods. This implies the existence of certain specific criteria of distribution for each sphere so that the distribution of the goods specific to a certain sphere does not directly influence the distribution in another sphere. The author also argues that a distribution is just when it occurs according to criteria resulting from the social

meaning of the goods, as it is shared by the members of that society. Thus he argues that there is no single standard of justice (complex equality).

Amartya Sen in his book, *Development as Freedom*, explains how in a world of unprecedented increase in overall opulence millions of people living in the third world are still unfree. Even if they are not technically slaves, they are denied elementary freedoms and remain imprisoned in one way or another by economic poverty and other deprivations. Sen test his theory with examples ranging from the former Soviet Bloc to Africa, but he puts special emphasis on China and India and argues how India with its massive neglect of public education, basic health care and literacy is poorly prepared for a widely shared economic expansion. Sen's book relates to my work as it has given a different definition to development not in terms of Gross Domestic Product (GDP), but in terms of 'real freedoms' that people enjoy.

C.B. Macpherson in his book *Democratic Theory: Essays in Retrieval*, argues that any adequate 20th century democratic theory must treat the individual members as at least potentially doers rather than mere consumers, must assert an equal effective right of the members to use and develop their human capacities. Therefore, unlike Sen, he agrees that a list of human capacities is essential to any democratic theory. Macpherson's book has helped us to understand that the concept of human capacities is in a democratic theory both quantitative as well as qualitative. As democracy maximizes men's powers that helps human to use and develop one's capacities, hence Macpherson emphasizes that these powers need to be measured. As a man's power is to be measured in terms of the absence of impediments, to his using his human

capacities, his ability is therefore 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. Thus according to Macpherson any democratic theory must treat a man's power in the developmental sense as a quantity and must measure it in terms of external impediments to the exercise of his human capacities, that is impediments to the maximum attainable in principle at any given level of social productivity and knowledge.

Joseph Stiglitz in his book *Globalisation and Its Discontents* critically examines why there has been so many hostile protests against globalization e.g. protests in Seattle and Genoa and how in the name of sustaining the world financial stability institutions like International Monetary Fund (IMF), World Trade Organization (WTO) and World Bank are promoting the interests of wall street and the financial community under its veil ahead of the poorer nations. This book will be of great benefit to my proposed work in so far as it explains how privatization of the national economy has led to greater rent seeking, opened up opportunity for special tax privileges which in turn helps govt. ministers and other political elites to loot public coffers rather than to fill them. It will also help me in comprehending how the WTO and finance ministers and central bank governors have aligned themselves with members of the business and financial community to enhance their vested interests at the expense of others.

Ingrid Robeyns in an article, *In Defence of Amartya Sen in Post-Autistic Economics Review*, provides a defence of Amartya Sen's capability approach which was criticized by Emmanuelle Benicourt in her article published in the *Post-Autistic Economics Review*, 2002, where she has categorized Sen as a traditional mainstream economist and Sen's capability approach as just a variation of standard micro-economics. The author argues that Sen's capability approach is very broad and has helped in understanding diverse issues as development ethics and has been applied in many more domains than only welfare economics or liberal philosophy. The author argues how the capability approach makes a difference with the standard mainstream economics like, while studying the overall gender inequality in well being, mainstream economics is fundamentally unsuited and capability perspective allows to see the ambiguities and complexities that pure utility or income based analysis cannot reveal.

Laura Valentini in the paper, *A Paradigm Shift in Theorizing about Justice, A Critique of Sen*, presented at the Centre for the Study of Social Justice, has raised some doubts about Amartya Sen's recent critique of the Rawlsian Paradigm in theorizing about justice in Sen's book, 'The Idea of Justice'. He says that the Rawlsian Paradigm delivers much of what Sen himself wants from a theory of justice. Sen argues that political philosophy should move beyond the Rawlsian Methodological outlook-which Sen calls-Transcendental Institutionalism-towards a different, more practically-oriented approach to justice-realization focused comparison. In this paper the author argues that Sen's criticisms are in fact either based on misrepresentation of Rawlsian approach or correct but of little consequence and hence Rawlsian Paradigm need to be better understood and further developed.

Amartya Sen in his article *On Interpreting India's Past* in Sujata Bose and Ayesha Jalal's book, *Nationalism, Democracy and Development; State and Politics in India*, which is a collection of essays on diverse themes, examines the nationalist interpretation of India's past and some of the challenges that have been presented to it and relates them to the contemporary problems of practical importance. Specially in pages 32 and 33 of the essay, Sen argues how there is persistent social inequalities in India, which has deprive the subalterns both materially as well as intellectually and hence in order to remove such injustices, education should be given to them in order to eradicate them from this traditional deprivation.

Methodology:

In the qualitative research, there is an in depth knowledge of cases and context focusing on relatively few numbers of cases, employs little or no use of statistical tools in reaching conclusions and it mostly relies on thick analysis. On the other hand, in the quantitative research is based primarily on ratio-level measures, uses large number of cases, explicitly or directly employs statistical tools, and uses thin analyses. This study has used a qualitative and comparative method with in depth analysis.

The research design is a plan for systematic understanding of phenomena to execute the research successfully. In fact, both historical and analytical methods are employed for reaching out the conclusive findings of the study. All the gathered information is studied analytically in order to deal with the statement of the problem. To access the relevant documents and materials different libraries within the country are visited, especially in North-East India region.

In order to understand the possibility of Sen's notion of justice both the primary and secondary sources are consulted. Regarding the primary source Amartya Sen's book, '*The Idea of Justice*', is extensively consulted. Besides this all the necessary and relevant materials which form a part of this study are collected from a range of related books, articles, journals, newspapers and reports of various seminars, symposia and conferences that fall within the domain of the study area. Besides various websites are also be searched and consulted for gathering relevant information in this regard. Moreover some related available statistics pertaining to the study area are also taken into account to make the research work more genuine and relevant one. The present study is basically a theoretical one and as such no field study is conducted. Literature review has helped in supporting the focus of the study, explaining and evaluating the study. It has also provided theoretical constructs to organize the study and to connect between theory and real world phenomena.

Chapterisation:

The whole study is divided into a total of 6 (six) chapters. The chapterisation is done as follows-

Chapter 1: Introduction:

This includes the statement of the problem, significance of the study, objective and hypothesis of the study, review of literature, methodology and sources of data.

Chapter 2: Historical Development of the Concept of Justice:

It focuses on the need for a broader conception of the idea of justice and how earlier theorists (like Rawls) gave emphasis to the institutional perspective (trying to create perfect institutions and society) while framing their theories of justice.

Chapter 3: Amartya Sen's Differentiation from the Rawlsian Approach:

It primarily analyse how Sen's understanding of the notion of justice is different from the earlier thinkers, specially Rawls and goes beyond the institutional perspective and is based on public reasoning, giving importance to the actual lives of the people.

Chapter 4: Assessing the Practical Orientation of Sen's Notion of Justice:

The fourth chapter deals with the possibility in Sen's notion of justice and to what extent it can be practically implemented in a multicultural society (like that of India) dominated by religion and superstitious beliefs of the people. Besides it also assesses Sen's notion of justice in the present era of globalization.

Chapter 5: Revising Sen's Notion of Justice and Going Beyond it.

While revisiting Sen's notion of justice, as whether it is enough to deal with the issue of injustice in the society, the fifth chapter attempts to go beyond Sen's idea of justice and also search for reconciliation between Sen and Rawlsian paradigm of justice.

Chapter 6: Conclusion:

It being the conclusive part of the work includes the findings of the study. It provides a brief review of the conclusions arrived through the analyses made in the preceding chapters as well as a general conclusion of the work. It also deals with some suggestions for reconciliation between Sen and Rawlsian paradigm of justice. It also highlights the expected contributions of the study and the probable future areas of research.

Notes and References:

1. Nickolas Pappas, *Plato and the Republic*, Routledge, London, 2nd Edition, 2003.
2. John Mandle, "Globalization and Justice", *Annals of the American Academy of Political and Social Science*, (2000), Vol.570, pp. 126-139.
3. Rawls main concern were social and economic inequalities and he tries to deal with them by looking at the firmest convictions about basic rights and liberties, the fair value of the political liberties as well as fair equality of opportunity (see John Rawls, *Justice as Fairness, A Restatement*, Harvard University Press, Cambridge, 2001, pp. 41-42).
4. John Mandle, "Globalization and Justice", *Annals of the American Academy of Political and Social Science*, (2000), Vol.570, pp. 128-135.
5. Amartya Sen, in his article, "Justice: Means versus Freedom", objects that Rawlsian primary goods do not take into account with anyone's comprehensive conception of the good life; besides not considering the different capabilities of persons to use resources to fulfil their own interest (chiefly, to pursue their own conception of the good), see *Philosophy and Public Affairs*, (1990), Vol.24, No.3, pp. 111-121.
6. Amartya Sen, *Identity and Violence: The Illusion of Destiny*, Penguin Books, New Delhi, 2007, p. 117.
7. Amartya Sen, *The Idea of Justice*, Penguin Books Ltd, New Delhi, 2009, p. vii.

8. Amartya Sen, *Poverty and Famines: An Essay on Entitlement and Deprivation*, Oxford University Press, New York, 1982.
9. One of the primary reasons for focusing specially on Rawlsian approach is because, Rawls' theory on justice has been the most acceptable theory till now and Sen's development of the notion of justice is also very much Rawls-saturated.
10. Sen argues that the various theoretical arguments advanced by libertarians, utilitarians, egalitarians and the like have real significance in the sense that they contribute to our understanding of justice. None of those set of values, however, overrides the others. Furthermore, each of the theories provides important insights but cannot club into a simple or indeed complex, calculative function. Hence there is no universal system of justice that provides a set of principles or weighted calculations such that for any given question (see Amartya Sen, *The Idea of Justice*, Penguin Books Ltd, New Delhi, 2009, pp.5-9).
11. *Ibid*, pp. 13-15.
12. One of the many pleasures of *The Idea of Justice* is Sen's vast analysis of India's culture and literature, which helps him to emphasise and formulate the public reasoning aspect of justice seen in many societies across the nation. He also provides valuable insights of ideas and arguments derived from many sources: from the Buddha to Alexander the Great's Indian interlocutors, from

- Nelson Mandela to contemporary Islamic thinkers, from Shakespeare to the Bhagavad-Gita.
13. Sen sees this distinction also visible among the European political theorist (see Amartya Sen, *The Idea of Justice*, Penguin Books Ltd., New Delhi, 2009, p. 20).
 14. Amartya Sen, in his article, “Elements of a theory of Human Rights”, argues that a theory of justice or more generally an adequate theory of normative collective choice has to focus not only on the fair procedure but also on the equality and efficiency of the substantive opportunities that people enjoy. In comparison to Rawlsian aspect of ‘primary goods’, equality can act as a better effective instrument. However Sen also believes that capability can hardly serve as the sole informational basis for the other considerations, related to the processes that must also be accommodated in normative collective choice theory, see *Philosophy and Public Affairs*, (Autumn, 2004), Vol.32, No.4, pp. 315-356.
 15. Amartya Sen, *The Idea of Justice*, Penguin Books Ltd., New Delhi, 2009, p.12.
 16. *Ibid*, pp. 14-15.
 17. John Francis Burke, “Multiple Rationalities of Justice”, *The Review of Politics*, (2010), Vol. 72, No. 3, pp. 540-542.
 18. Amartya Sen, *Inequality Re-examined*, Oxford University Press, New Delhi, 2002, pp. 73-87.

19. It should be noted that social choice theory should not be confused with rational choice theory, as the latter defines rationality as the pursuit of self-interest. However, Sen assumes that fairness involves a reasonable concern for the interests of others and his depiction of social choice theory reflects this thinking.
20. Amartya Sen, *The Idea of Justice*, Penguin Books Ltd., New Delhi, 2009, p.66.
21. Amartya Sen in his, "Freedom and the Foundations of Justice", elaborates how justice is associated with the notion of capability and how people convert their income or primary goods into good living, see *Development as Freedom*, Alfred A. Knopf, New York, 2000, 4th Edition, pp. 54-86.
22. Amartya Sen, *The Idea of Justice*, Penguin Books Ltd., New Delhi, 2009, p. 133.
23. *Ibid*, p. 125.
24. The impartial spectator approach does not seek unanimity. It may not even reach an agreement that is clearly just. Perhaps, it will yield an outcome that is 'plausibly just or at least not manifestly unjust' (see Amartya Sen, *The Idea of Justice*, Penguin Books Ltd., New Delhi, 2009, pp.134-135).
25. *Ibid*, p. 7.
26. According to Sen, it could be the case that there exist several distinct reasons, which forms a part of the reasonable arguments in relation to justice, surviving initial scrutiny yet giving different conclusions. Moreover through reasoned arguments, one can end up with some form of plurality concerning justice (see

- Amartya Sen, *The Idea of Justice*, Penguin Books Ltd., New Delhi, 2009, pp.31-51).
27. *Ibid*, p.101.
28. Chris Brown, "On Amartya Sen and the Idea of Justice", *Ethics & International Affairs*, (2010), Vol.24, No.3, pp.316-317.
29. Amartya Sen, *The Idea of Justice*, Penguin Books Ltd., New Delhi, 2009, p.97.
30. Amartya Sen, *Identity and Violence: The Illusion of Destiny*, Penguin Books, New Delhi, 2007, p.184.
31. Amartya Sen, *The Idea of Justice*, Penguin Books Ltd., New Delhi, 2009, p. 410.
32. *Ibid*, pp.140.
33. Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality*, Basic Books, New York, 1983,
34. S. Subramanian, "Thinking Through Justice", *Economic and Political Weekly*, (2010), Vol. 45, No. 19, pp. 33-42.
35. Dhiren Bhagawati, *Engaging Freedom: Some Reflections on Politics, Theory and Ideology*, DVS Publishers, Guwahati, 2009, pp.19-31.
36. Keith Dowding in his article, "What is the idea of Justice?", links the notion of justice with public reasoning and deliberation which is the central aspect of democracy, see *Indian Journal of Human Development*, 2011, Vol.5, No.1, pp. 83-98.

37. Onora O'Neill, "Review", *The Journal of Philosophy*, (2010), Vol. 107, No. 7, pp. 384-388.
38. Joseph Stiglitz, "The Overselling of Globalization", in Michael M. Weinstein (ed.), *Globalization: What's New*, Columbia University Press, New York, 2005, pp. 228-241.
39. Akhil Ranjan Dutta, "Changing Paradigms of Security Discourse in North-East India", in Akhil Ranjan Dutta (ed.), *Human Security in North-East India, Issues and Policies*, Anwesha Publication, Guwahati, 2009, pp. 28-29.
40. Amartya Sen, *Inequality Re-examined*, Oxford University Press, New Delhi, 2002.
41. Amartya Sen, "On Interpreting India's Past", in Sujata Bose and Ayesha Jalal (ed.), *Nationalism, Democracy and Development; State and Politics in India*, Oxford University Press, New Delhi, 1997, pp. 32-33.
42. Amartya Sen, *Inequality Re-examined*, Oxford University Press, New Delhi, 2002, pp. 73-87.

