



**JUSTICE: A CONTEMPORARY PERSPECTIVE**

**INTRODUCTION TO POLITICAL THEORY**

**LESSON : JUSTICE: A CONTEMPORARY PERSPECTIVE**

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# **Justice :A Contemporary Perspective**

## **Introduction and meaning**

The word "Justice" can be linked to "Justitia" an old French word which means righteousness and equity, and can also be referred to Latin word "Justus", meaning upright and just.

One of the earliest accounts of justice is found in Plato's The Republic. The central question of the republic was the meaning of justice. In his book " The Republic" he seeks to establish the "true nature of justice". Then he moves on to construct an ideal state that would be an embodiment of his understanding of justice. For Plato, an ideal state possessed four cardinal virtues namely temperance or self control, wisdom, courage, and justice . In that ideal state, according to Plato, individual would be true to his nature, some men being philosophical and intellectual and others, soldiers, good workers or artisans and so on. In an ideal state each individual would fulfill the duty given to him diligently and meticulously. Justice, in Plato's words referred to doing one's job for which one was naturally fitted and not interfering with other people. **(Mukherjee Ramaswamy :2012)**

## **Nature and scope**

For Aristotle justice lies in incorporating concerns of equality, proportionality, and maintenance of equilibrium in society. Aristotle identified two types of justice 1)Distributive Justice 2) Corrective Justice- Here Distributive justice deals with allocation of wealth and honor. It rests on the principle "treating equals equally and unequal unequally". Corrective justice aims to see that the proportionate equality so established by distributive justice is not disturbed.

Distributive justice which deals with the distribution of wealth, income goods among the people has come under an attack by many political theorists. They question the very basis of this distribution so as to ensure its fairness. They focus on three criteria which are:-

**Desert-** The word desert derived from the French word 'deserte' which means to "Deserve". It refers to those actions, deeds or endeavors of individual based on which she/he receives award or punishment. In other words rewards or punishment should be given to individual according to her/his action or deeds.

**Merit-** The criteria of merit imply that any action or deed of an individual would be measured by their usefulness or harm to society. For example, a person produces something that becomes useful for the society will receive rewards for his accomplishment. For example Mother Teresa received nobel prize her selfless service to the society. Now, what those who are disabled or sick and cannot contribute anything to the society?

**Need-** The criteria of need suggest that men differ in their capacities and needs. Since different people have different capacities and needs, the principle of justice requires that despite difference of capacities, the need of the people has to be fulfilled. But, distribution according to need is possible if there is abundance of resources/good and services. This can be referred as hypothetical situation. Had there been abundance of resources then perhaps there would not have been any conflicts among individuals and as a result the question of justice would not have arisen. The recent scenario shows that there is a huge population which consist of rich, poor, able bodied, disabled bodied, mentally challenged, diseased, men, women, children, old, trans sexual etc. All these diverse people have different needs , which state has to fulfill but due to scarcity of resources the following queries arise :

- a) How just distribution should be made so that everybody's need is taken care of.
- b) What should be distributed to whom as different people have different needs.

The political theorists have come up with two options- one is procedural theory of justice which holds that there is necessity of a just procedure for



allocation of social advantages. For example, if goods, services, opportunities, and benefits, power and honour etc are distributed by following a just procedure then its outcome will automatically be just. In other words, certain set of rules should be followed in order for just distribution. However, it sees individuals as autonomous and rational beings who make choices according to their needs and thus are responsible for the consequences of their deeds/actions. (**Robert Nozick: 1979**)

Second is Social Justice- Social justice denotes organization of society based on equality and fairness. It aims at establishment of equitable society. The concept of social justice calls for both social and economic equality. Advocates of social justice sometimes call for unequal or preferential treatment for example preferential treatment for SC/ST in India, blacks in US. In India, historically certain sections of Indian society recognized as Schedule castes, have been deprived of many rights. For their upliftment government has framed many preferential policies such as reserved seats in educational institution in public employment etc. Various justifications have been offered for these kinds of preferential treatment.

Firstly, it is argued that such kind of treatment compensates the deprivations that these sections have suffered in the past. Secondly, it is argued that these policies are indispensable for achieving equality, so that the deprived section can be brought on an equal footing with other sections of society. Thirdly, these sections have been socially oppressed and economically exploited for long resulting in a situation where they are at the bottom in the social and economic ladder at present. Thus, to liberate them from the exploitative system and establish justice, state comes forward with preferential treatment or positive discrimination. Through positive discrimination they gain social share in every field whether social, economic or political power.

Positive discrimination has been criticized on the grounds that the unequal treatment leads to injustice to other people who do not belong to these groups but are equally exploited. Besides this, within the deprived section or groups benefits are cornered by sections among them who are relatively in a better position. Consequently, benefits do not reach the most oppressed.

The theories of social justice are criticized on three grounds which are: Firstly, the demands for social justice leads to increase in the activities of the state. It is the state that decides who gets what and when. The officers recruited by the state develop vested interest which does not serve the ends of social justice. Secondly, there is curtailment of liberty of individual due to implementation of policies of social justice. Thirdly, sometimes, it is difficult to assess which are the basic needs that are required to be fulfilled.

### **Rawls theory of justice**

Rawls criticizes Utilitarianism while defending and developing a contractual liberal conception of justice. Rawls contractual approach provides a coherent, systematic, and powerful defense of a new kind of egalitarianism that preserves and extends individual liberty. Like Hobbes and Locke, Rawls also talks about pre social state of nature in which people would decide consensually on the set of principles to form the future society they would agree to live in. While agreeing to form these principles they all seek to maximize satisfaction of their own interests such as rights, opportunity, income or wealth. In this original position, they will be under the veil of ignorance which prevents them from knowing full details of others' skill, preference, status, etc. In this situation as per Rawls' argument people find themselves in a situation where everyone has 'particular wisdom and general ignorance'. So they would consensually agree on those principles of justice which would prove to be most beneficial to the people who are worst off. In Rawls opinion the way to find out such principles of justice is to think about what principles would be chosen by people who do not know how they are going to be affected by them. He sets out his theory by placing individuals abstracted from their social and economic context behind what he calls "Veil of ignorance". People placed behind this veil are unaware of who they are, what their talents, skills, interests so on and so forth. Now the question is why Rawls places people behind veil of ignorance? How depriving people of particular knowledge would lead to fairness? Well, for Rawls, justice should be understood as that which would emerge as the content of the hypothetical contract of agreement arrived at by people deprived of the kind of knowledge that would otherwise make the agreement unfair. If one does not know that which piece of cake he will

get, then he is more likely to cut fairly. Depriving people of particular knowledge means that they will choose fair principles, rather than allowing them to use this knowledge so as to make it biased in favor of their interest. Rawls believe that society chosen on impartial grounds would be a just society and the concept of justice arrived at would be justice as fairness.

In Rawls opinion everyone will choose a kind of society which minimizes his possible losses and makes sure that even the worse off person is not so destitute in case he /she lands up there. According to Rawls, people would choose two principles of justice:

- 1) *Each person should have an equal right to the most extensive basic liberties (civic personal rights of a person) which are compatible with similar liberties of others;*
- 2) *Social and economic inequalities need to be arranged in such a manner that both are :*
  - a) *To the greatest benefit of the least advantaged and*
  - b) *Whereby positions and offices are open to all under conditions of fair equality of opportunity.*

According to Rawls, the first principle regarding basic liberties (principle 1) is supposed to have precedence over the second principle i.e (principle 2) in case of conflict between the two principles. Rawls also argues that such a case within the second principle the part (b) is supposed to have precedence over part (a).

The first principle i.e "Each person to have an equal right to the most extensive basic liberties compatible with similar liberties of others" is called the principle of Equal liberty. According to this principle, each member of a society is supposed to have an equal right to the most extensive scheme of equal basic liberties which are compatible with a similar system of equal liberty for all. In the same manner, each member of society has an equal guarantee to as many different liberties—and as much of those liberties—as can be guaranteed to every member of society. The liberties, which Rawls discussed include: political liberty (the right to vote and to be eligible for public office); freedom of speech and assembly; liberty of conscience and freedom of thought; freedom of the person along with the right to hold personal property; and freedom from arbitrary arrest and seizure.



**(Rawls :1971)** Unlike some libertarian interpretations of utilitarianism, Rawls did not advocate absolute or complete liberty which would allow members of society to have or to keep absolutely anything. He was opposed to the libertarian notion of absolute and complete liberty in an unrestrained manner which would virtually allow members of society to have something in an absolute manner.

The principle of equal liberty would be chosen because the parties to the original position will want to be free to pursue their major special interests whatever there might be. In the original position each person is ignorant of his or her special interests and so each will want to secure a maximum amount of freedom to be able to pursue those interests.

The second principle popularly known as, *difference principle* which requires that all economic inequalities should be arranged in such a way that they both should: a) benefit the least advantaged and b) attached to offices and positions open to all members under conditions of fair equality of opportunity. Rawls does not mind those socio economic inequalities in society if they are arranged in such a manner that they assist the least advantaged members of society and that the inequalities are connected to positions, offices, or jobs that each member has an equal opportunity to attain. According to (b) part of second principle, everyone should be given equal opportunity to qualify for the privileged position in society.

Rawls argues for a system of equal basic liberties like economic inequalities which are permitted by the difference principle within the second principle of justice so long as these maximize an index of primary goods enjoyed by the least advantaged members of the society. While all are equally free to exercise set of liberties equally distributed but all are not similarly empowered to make use of primary goods in the exercise of those liberties. Each may be equally free to speak his mind but those who are materially in an advantageous position may have greater influence for their ideas than the disadvantaged. While citizens are equally free from certain constraints, they are not equally able due to differences in wealth and power to exploit that freedom. In other way, the equal negative freedom guaranteed by the first principle of justice is juxtaposed to the unequal positive freedoms sanctioned by the second and the inequality of the latter undermines the equality of the former.



As per Rawls' own description his theory of justice is coming within the category of pure procedural justice. According to such a theory once certain principles of justice are unanimously accepted the distribution resulting from their application will be necessarily just. Rawls has vehemently criticized those theories of allocation which does not take into account the moral worth of the individual for the attainment of any predetermined goals. Rawls is critical of utilitarianism as utilitarian principle does not take note of extreme hardships to any particular individual in its calculation of the greatest happiness of the greatest number.

C.B Macpherson in his work "Democratic Theory: Essays in Retrieval" argue that Rawls theory is graceful defense of liberal democratic capitalist welfare state. According to Macpherson, Rawls theory assumes that capitalist society is still class divided society that inequality of income will always be an essential requirement as it will act as an incentive to efficient production. Rawls argues that incentives would lead to more efficiency and generate greater material wealth which in turn would benefit everyone including the worst off of the society. Thus in welfare state one class is still better-off than another. Rawls argues that nothing much could be gained by an attempt to rule out inequalities. Macpherson argues that such inequalities would adversely affect individual liberty and create inequality of power in the society.

### **Robert Nozick's views on justice**

Robert Nozick, in his book, **Anarchy State And Utopia (1974)** puts forward his entitlement theory of justice which is highly individualistic. Nozick gave individual prime importance in his theory and criticized Rawls on the ground that his theory causes injustice to the better off when Rawls calls for redistribution of the property of better off by the state to the benefit of worse off. Nozick uses Lockean argument that we acquire entitlement by mixing our own labor with un-owned resources. As long as this acquisition does not worsen the situation of other people it is just according to Nozick. All inequalities resulting from the use and free exchange of goods are just as long as the initial appropriation is just. Nozick suggested three principles to just distribution of holdings:

- a) If a person who acquires a holding in accordance with the principle of justice in acquisition is entitled to that holding; this is called Justice in Acquisition
- b) If a person who acquires a holding in accordance with the principle of justice in transfer from someone else holding is entitled to the holding; this is called Justice in transfer
- c) If no one is entitled to a holding except by (repeated) applications of (1) and (2), this is called Rectification of injustice (**Nozick ,1974**)

The first principle i.e justice in acquisition means that a person who has owned something by mixing his labour exclusively belongs to him. Acquisition here means first or original acquisition of goods which are owned either by nobody or else inclusively by everyone in common. The principles of just transfer concerns that holding that is justly acquired has to be justly transferred from one person to another. Transfer should be voluntary without any force or fraud. For example a stolen book returned to its legitimate owner. Rectification of injustice concerns with rectification of the unjust holding acquired or transferred by unjust way. (**Dudley Knowles:179**)

Nozick argues that justice is about respecting people's right, respecting people's rights in particular, their rights to property and their rights to self-ownership. In his opinion people must have the freedom to decide what they want to do with what they own. Each person is a separate entity and his autonomy should be respected. People are end in themselves and should not be used as means. Nozick's objection to redistributive state is that it uses some people as means to other people's end. Nozickian thought emerges from the idea that "liberty upsets patterns". Nozick's objection to patterned principles of justice - those holding that the justice of distribution depends on whether or not it conforms to a particular pattern - is that the preservation of justice inevitably involve restrictions, in his view unjustified restrictions, on people's liberty. (**Adam Swift 2006:35,36**)

### **FA Hayek's view on justice**

FA Hayek places liberty at higher pedestal than any other political ideal like equality, justice etc. He emphasizes on individual liberty and believes that any coercive redistribution by the state beyond the meeting of common

basic needs involves an unjustifiable interference with individual liberty. For him social justice is a mirage. In his book **"The Road to Serfdom"(1944)** Hayek is of the opinion that the state's ambition to realize social justice implies a centralized authority making people do those things that they might not want to do, interfering with their freedom to do what they like with their resources. As long as the state is interfering with individual liberty through various ways like planning the economy, or redistributing resources in pursuit of particular distributive goals, it is invading individual freedom and also distorting market processes. In Hayek's opinion, if state is restricted from invading individual freedom, then, this would lead to benefit everybody. ( **Adam Swift :19-20**).

In his book **Law Legislation And Liberty :The Mirage Of Social Justice ,1976**, Hayek is a skeptic concerning the value of social justice or distributive justice. To him the term social justice is "empty and meaningless", it is a mirage. Hayek maintains that society has only limited resources which are not enough to satisfy everybody's needs. If policy based on social justice is adopted the social the bureaucracy would assume the power of arbitrary distribution of those resources. In the opinion of Hayek, this will destroy individual freedom.

The communitarians criticize Rawls conception of a position in which the persons come together behind a veil of ignorance to choose a set of principle. Here, they are without knowledge of particular capabilities, weakness, or of the social status they would assume in a future society in order to decide upon a distribution of social primary goods that is just in their view. Communitarians like, Taylor, Walzer, Sandel, Macntyre and others focus on whether people would be able to choose anything because atomistic, a-social, free and equal individuals represented in the original position is so abstract that it is impossible to conceive of such a "stripped-down" individuals capable of choosing.

Sandel argues that Rawls relies on a metaphysical concept of the self which makes no sense. The person in the original position is an "unencumbered self" abstraction. According to Sandel veil of ignorance permits individual to become "unencumbered selves" which is untenable by nature because human beings are encumbered to a certain extent( **Sandel, In liberalism and limits of Justice, 1982**). Such pre social individuals



independent of their particular interests, desire, values, and conceptions of his good would be incapable of deliberation and choice.

M. Walzer points out that no system of justice can be evaluated as just or unjust. Evaluation is possible merely on the basis of the social meanings attached to the goods at state. Walzer, a left communitarian, talks about complex equality. In his view a notion of distributive justice based on different rules of distribution for different social goods. There is no single principle of distributive justice that holds true for all societies in all places and all times. According to Walzer "the principle of justice are themselves pluralistic in form..... different social goods ought to be distributed for different reasons , in accordance with different procedures, by different agents and..... all these differences derive from understanding of the social goods themselves – the inevitable product of historical and cultural particularism".(Walzer 1983:5-6)

In Michael Walzer's opinion, justice must be created by each particular community. For him each distinct type of social good comprises its own sphere of justice with its own criteria of distribution. Walzer's Complex equality requires that no one should be able to dominate others.

### **Feminist Critiques of Rawls**

Rawls methodology and assumption has been under severe attack by feminist. Some feminist challenged the abstractness of the original position and its application to social context in reality. In view of some feminist Rawls theory of justice is based on typically male conception of human nature and application of male values.

In "**Justice, Gender, and Family**" (1989) Susan Moller Okin points out that Rawls has not included the working of the family in his discussion on Justice. The working of family is greatly influenced by the laws, in situations, and ideas of justice such as- laws those govern our family lives- property laws, inheritance laws, divorce laws, adoption laws and the likes. Okin argues that any theory of justice that does not consider inequalities in family is an incomplete one. For example, inequalities supported by social tradition like women are not allowed to work outside like that of men, thus depriving them of a desire to enjoy an active life. The sex-based division of labour



which does not have a biological foundation is the root cause of the stereotypes resulting in women subjugation.

In Rawls scheme it is clear that the parties to the contract are men. Rawls assume that they are male heads by households. For Rawls, family is the basic structure of society for which the principle of justice are being chosen but Rawls is silent about the injustice and does not take into account the injustice within the family. Okin suggests that people in the original position shall not have any knowledge of whether they are men or women and then she insists them to undertake an evaluation of the family, which is a part of the basic structure of the society according to Rawls. In Okin's opinion this will lead to an evaluation of the injustice within the family and will result in emergence of a true humanist notion of justice.

According to some feminists the model of self-interested individualistic, rational and autonomous man in the original position shows male conception and does not allow any role of feminine qualities like nurturing, co-operation, care, and empathy. Some feminists argue that Rawls's emphasis on impersonality, rationality, and universality are based on male norms of moral reasoning. Rawls's model of man is abstract, unrelated, and inapplicable to women and also to some specific situations.

The feminist critics believe that the existing theories of justice are inadequate and unacceptable as long as the system of political and social oppression that men exert over women exists. The feminist theory of justice debates on whether there is any specific female way of moral reasoning that is different from the universal objective, and impersonal ethic of justice. According to Carol Gilligan men conceive of morality as constituted by obligations, rights and impartiality where as women's morality is characterized by care, love, values and peace. Both men and women form different ethic pertaining to justice-- the impartial, objective and universal framework as the male ethic of justice in contrast to it women ethic is based on care and compassion. **(Mackinnon: 2006)**

However, this view has been criticized by many including Catherine Mackinnon. It would not be correct to say that men are incapable of loving, caring and nurturing as women are incapable of rational, universal, unbiased, objective Sentiments. Further such kind of dichotomy reaffirms the existing situation in which women are tied to their tradition role only.

Many Feminists would rather like to see care and justice as complementary to each other. For them ethics of care could be made effective if it is linked to justice. ( Acharya and Bhargava: 2008, Mackinnon: 2006)

### **Amartya Sen's view**

In his view, Rawls framework concentrates only on the means to freedom rather than on the extent of the freedom that a person actually has. Sen's approach to justice was capacity based. It is not merely related to providing access to primary goods but also it includes the degree/ level of capabilities that each individual has to convert these primary goods into lives that they value living and that would determine freedom and uphold justice.

In the opinion of Amartya Sen everyone does not enjoy same amount of liberty despite access to same set of primary goods. There could be various reasons like physical limitations/ challenges that create restriction on capabilities. For Sen, capability means a person's opportunity and ability to generate valuable outcomes. Sen further argues that equal distribution of primary goods cannot guarantee equality of freedom to pursue one's own objective. Sen emphasizes on interpersonal variation in people's ability to change resources into actual freedom. In Sen's view variations like age, sex talent, skills, influence people's abilities in different ways, and thus with same primary resources they come out with different results.

He argues that despite similar access to primary goals, the difference in the extent of capabilities to convert the same into freedom is more important. Sen further argues that what matters most is not what resources one possesses or what one can make out of those resources but rather what one's resources and opportunities allow one to "do and be"- this is referred by Sen as "Capability to function". Depending on the particular needs of different persons different packages of resources are required to enable them to function to the same degree. In the opinion of Sen, functioning is an achieved "being or doing"- being healthy, having control over one's environment and so on whereas capability is referred to one's opportunity to achieve a functioning. He further mentions that government should be concerned with ensuring capabilities rather than functioning. In simple word,

government should work towards enhancing the capabilities of individual so that they could utilize the resources available to them to the maximum and enjoy their liberty. **(Amartya Sen: Development as Freedom: 1999, Equality of what? :1979)**

Now the pertinent question that has been raised is "What capabilities should be enhanced? Martha Nussbaum in her book presents a provisional list, which in her view has universal validity.

- 1) The capabilities to live a normal length of life to the end.
- 2) The capabilities of being able to have good health, including reproductive health, being able to adequate nourishment and proper shelter.
- 3) The capabilities to be able to move freely from one place to another place: to have security against assault, including sexual assault, child sexual abuse, and domestic violence and to have opportunities for sexual satisfaction and for choice in matters of reproduction.
- 4) The capabilities of being able to imagine, think, and reason and to do these things in an informed and cultivated way through proper education/ awareness campaign. Capability of being able to freedom of expression, speech and religion.
- 5) The capabilities of being able to have emotional attachment to things and people outside ourselves and to love those who love and care for us.
- 6) The capabilities of being able to engage in critical reflection about the planning of one's life.
- 7) The capabilities of being able to live with others, to recognize and show concern for other human beings, to engage in various forms of social interaction. Capabilities to live a life with self respect, dignity and non discrimination.
- 8) Capability of being able to live with concern for and in relation to animals, plants, and the world of nature.
- 9) The capabilities of being able to laugh, to play, to enjoy recreational activities.



10) The capabilities of being able to participate actively in political choices that govern one's life and to have real opportunities to hold property. To have the right to seek employment on an equal basis with others. (McKinnon:267)

The capability view has been applied to development economies and has helped and enriched the debate on equality and social justice.

### **Rawls view on global justice**

In "**A Theory Of Justice**"(1979) Rawls focuses on the principle that should govern closed communities particularly nation states. Rawls then sets out to derive the principle of justice that should govern global societies including liberal and non liberal societies. Thus Rawls came up with his another remarkable work "**The Laws of People**"(1999). In "The Laws of people" Rawls sought to determine the laws which would be accepted by well ordered people. These well ordered people included reasonable liberal and decent non liberal peoples. Rawls describes his scheme as search for realistic utopia. It is realistic in Rawls view because it takes into account many real conditions for example assuming that a fair amount of diversity exist in the real world and that not all peoples of the world endorse liberal principles nor they can be reasonably persuaded to endorse liberal principles.

Rawls employs two stages of "original position" (instead of one as envisaged by him in his previous theory of justice), for determining the laws of people. In the first stage the liberal people gather to decide fair terms of cooperation that will regulate the basic structure of society. This stage is quite similar to the conclusion of the social contract. After deriving the principles governing the liberal society, Rawls moves to international level. In the second stage, another original position is employed to derive just principles of foreign policy for which liberal peoples assemble and were placed under veil of ignorance (similar to that of veil of ignorance as envisaged by Rawls in his original theory of justice).Here, they (people placed under veil of ignorance) do not know the size of the territory or how powerful the states are:

Rawls believes that the liberal people will arrive at an agreement to adopt eight principles of laws of people and on setting up three global



organizations to implement this law. The three global organizations to be set up, will be chosen by the liberal people :

- 1) One aimed at securing fair trade among peoples;
- 2) One that enables people to borrow from a cooperative institution; and
- 3) One that plays a similar role to that of the United Nations, which he refers to as 'a Confederation of Peoples (not states)' (**Rawls 1999:42**)

Rawls eight Principles governing his laws of peoples:

- 1) Peoples are free and independent, and their freedom and independence are to be respected by other peoples.
- 2) Peoples are to observe treaties and undertakings.
- 3) Peoples are equal and are parties to the agreements that bind them.
- 4) Peoples are to observe a duty of non-intervention.
- 5) Peoples have the right to self-defense but no right to instigate war for reasons other than self-defense.
- 6) Peoples are to honor human rights.
- 7) Peoples are to observe certain specific restrictions in the conduct of war.
- 8) Peoples have a duty to assist other peoples living under unfavourable conditions that prevent their having a just or decent political and social regime.

Now Rawls proceeds to demonstrate that these very principles and organizations will be selected to secure global justice by decent non-liberal people also. According to Rawls, a people would qualify to be a decent people if it fulfills following conditions:

- i) Society must not be aggressive: it must conduct its affairs in ways that are peaceful and respectful of other societies.
- ii) The system of law and its idea of justice must secure basic human rights for all members of the people, particularly the following rights : the right to life, by which he means the right to the means of subsistence and security, right to liberty which equates to freedom from slavery or forced occupation but also includes some liberty of conscience –enough to ensure freedom of religion and thought, right to personal property; and the right to formal equality by which he means that similar cases be treated similarly.

- iii) A decent people must have a decent consultation hierarchy in which the significant interests of all members of the people are taken into account. **(McKinnon,2012:261)**

Rawls suggests that all the decent people would accept and be committed to the Laws of People that had been derived earlier. Rawls now cites a hypothetical case of decent hierarchical people named Kazanistan. In this hypothetical state the upper positions of political authority are reserved for a particular religious community but at the same time other religions are also tolerated. The members of other religious communities can freely practice their religion without any fear or loss of civic rights, they can stick to their culture, take part in civic culture of the wider society. In Rawls word:

Rawls calls us to imagine an idealized Islamic state called Kazanistan. Here in Kazanistan's system of law does not commence the separation of church and state. Islam is favored religion, and only Muslims are allowed to hold the upper positions of political authority and influence the government's main decisions and policies, including foreign affairs. In spite of Islam being a favoured religion other religions are allowed to exist and are tolerated. Other religions are practiced without fear or loss of most civic rights, except the right to hold higher political or judicial offices..... Other religions and associations are encouraged to have a flourishing cultural life of their own and to take part in the civic culture of the wider society. **(Rawls, 1999:76)**

In Rawls' opinion decent well ordered and non liberal people will accept the laws of the people and the corresponding organizations as derived by the liberal peoples. The liberal people would admit non liberal people as members of the society of peoples (by which Rawls means something like the international community of people) without forcing them to accept liberal doctrine. In his words , liberal people should "try to encourage decent peoples and not frustrate their vitality by coercively insisting that all societies be liberal" **(ibid:62)**. Rawls emphasizes on maintaining mutual respect among people.

Rawls observes that some societies do not possess the political and cultural traditions, the human capital and know-how and often the material and technological resources needed to be well ordered **(ibid:106)**. Rawls imparts well ordered people an important duty to assist such societies to become part of the society of well ordered peoples. In Rawls view, the

prosperity of wealth of people and the forms it takes lie in their political culture and in the religious, philosophical, and moral tradition.

John Rawls through his work on justice draws attention to the distortions resulting from the global economic order. He emphasizes on the fact that economic cooperation can be structured in many ways and that such structural alternatives have diverse distributional tendencies in the economic order of a single society. In this context Rawls also argues that justice requires citizens to aim for a national economic order which meets the difference principle, that is, that allows social and economic inequalities to arise only insofar as they tend to optimize the lowest socioeconomic position (**ibid: 11-17**). Rawls also insists that the shaping and reshaping of a national economic order should be controlled by all adult participants through a democratic political process. Rawls' analysis can also be true of the international economic order. He acknowledges this when he calls for correction of any 'unjustified distributive effects' of cooperative organizations (**ibid: 43**). Rawls endorses "fair standards of trade to keep the market free and competitive" (**ibid: 43**). But free and competitive markets are quite compatible with huge and ever increasing inequality (**Rawls 1996: 267**). Therefore a principle that assesses alternative global economic orders in terms of their distributive effects, just as his difference principle assesses alternative ways of structuring a national economy. But in the international case Rawls is not in favor of any such principle that does not have "a target and a cutoff point" (**ibid: 115-19**) and he specifically rejects this, Rawls insists on a 'universal minimum' which can act as a crucial constraint in free bargaining. "Peoples have a duty to assist other peoples living under unfavorable conditions that prevent their having a just or decent political and social regime" (**ibid: 37**). It is interesting to note here that Rawls downplays the important causal role that the global economic order plays in the reproduction of poverty and inequality. This amounts to suggesting that each society bears sole responsibility for its own place in the economic rank order. The problem is not insufficient assistance to the poorer countries the injustice lies in the imposition of a skewed global order that aggravates international inequalities and makes it very hard for the poor countries to secure a proportional share of global economic growth.

There are certain compelling reasons why the developed countries have a moral duty and this duty requires them to make a serious effort toward



poverty reduction. Three morally significant connections between the developed and the developing countries can be established here. First, the social starting positions of both have emerged from a single historical process that was pervaded by massive grievous wrongs. Second, both the categories of countries depend on a single natural resource base, from the benefits of which the poor countries are largely, and without compensation, excluded. Third, both the rich as well as the poor countries coexist within a single global economic order that has a strong tendency to perpetuate and even to aggravate global economic inequality (**Thomas Pogge: 1998**). Thus failure to make a serious effort toward poverty reduction may constitute not merely a lack of beneficence on the part of the rich countries but their active impoverishing, starving, and killing of millions of innocent people by economic means.

Prof Amartya Sen, while arguing in favour of globalization, insists on some preconditions so as to make it just and beneficial for all nations (**Amartya Sen:2002**). Prof Sen raises the question of justice. The real issue for him is the distribution of globalization's benefits in a just and fair manner. In addition to the enabling conditions such as just distribution of physical resources, adequate development of human resources, prevailing of fair rules of business relations, existence of effective social-security arrangements etc. democratization of economic, social, and political institutions operating at the national and global levels is also called for owing to the critical dependence of the former on the latter. To sum up, the ethical and human concerns underlying many of the questions raised by the anti - globalization protesters need to be given a due consideration for serious reassessments of the adequacy of the national and global institutional arrangements that characterize the contemporary world and shape globalized economic and social relations.

## **End state theories vs process based theories**

These theories suggest a set of principles to control the process of exchange between individuals. The end state theorists measure justice behind a given distribution, by examining conditions at a given time. For example an end state theorist would look at the distribution of resources in a society if he had to find out whether the resources were justly distributed in



a given society. Apart from individual actions, end-state theories attempt an evaluation of the society as a whole. Since end-state theories of justice can also be referred to as social justice theories there can be different types of end-state theories. Although Marx does not think of justice to be relevant at all in his communist society he has discussed the concept in a detailed manner in his 'Critique of the Gotha Programme'. His views here may well be considered to be an example of end-state theory of justice. On the other hand, there is also another social justice theory from the liberal perspective i.e. Rawls' theory of justice which can also be categorized as an end-state theory of justice. So it would be in the fitness of things to briefly discuss about both the perspectives here. Marx discusses about two types of concepts, one for the transitional socialist society and the other for the communist society where, in his opinion, this concept would no longer be required. The principle in the transitional society would be: from each according to one's capacity and to each according to one's work. So one receives payment here in accordance to one's labour contribution to the social product. Marx's dissatisfaction with this contribution principle lies in its ignoring the fact that different workers vary in their talent as well as their needs. But this contribution principle does not take into consideration the crucial factor of needs. On the contrary, in the communist society, the principle being from each according to one's ability and to each according to one's needs this deficiency has been well taken care of. It is expected that people would produce goods and services without the need for differential rewards and that they would be unaffected by what others get. But for the principle to be upheld material abundance is crucial where there would be no scarcity and conflicts between individuals. The fundamental difference between Marxist perspective and that of John Rawls is that for Marx only under circumstances of scarcity and conflict over goals there would be a need for justice as a principle of operation of society whereas for Rawls justice is the first virtue of social institutions. Marxian view considers wage-labour in capitalism as unjust because it is both exploitative and alienating in character. It is so because its conditions are created by the existence of private property. Thus the abolition of private property is advocated so as to create a cooperative and harmonious community. Socialization of the production process is the means to achieve this objective. For Marx pursuit of profits in a market-driven society can never be the basis for creating justice. There is a general trend among most of the end-state theories of

justice to claim that certain ways of life constitute human perfection or excellence. The evident implication of this is that such ways of life should be promoted and other ways of life penalized. Critics argue that such theories are potentially tyrannical in nature as they privilege one notion over others. Here, there is always a threat to people's liberty due to interference on the pretext of upholding the perfect and just way of life. This is where, again, Rawls' theory differs from the Marxian one as Rawls tries to steer clear of favouring any one notion of the good life.

On the other hand, process-based theories refer to those theories that suggest/ focus on process through which distribution would take place. The process-based theorist considers the procedure that is behind a given distribution by examining the process that led to that distribution. They believe that if process is just then the outcome of the process would be just. Now if a process-based theorist is asked whether the resources were justly distributed in a given society, he would look at the process by which the distribution has been arrived at. So it would not be wrong to consider Robert Nozick as a process-based theorist.

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