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For: *Ethics and International Affairs*

Review Essay: On Amartya Sen and *The Idea of Justice*

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Indian Nobel Laureate Amartya Sen, born 1933, is one of the most important public intellectuals of our age, an original **thinker** whose work transcends the standard categories. His 1998 Nobel Prize was awarded for his work in welfare economics, but to describe him as an “economist” (as the term is understood today) would be inaccurate. Better would be “social philosopher,” or, better still, the old term “political economist,” since the scope and range of Sen’s work is directly comparable to that of such eighteenth and nineteenth century practitioners of Political Economy as John Stuart Mill, Adam Smith, and Karl Marx. Indeed, Marx and especially Smith are key reference points for Sen, although it is Smith’s *Theory of Moral Sentiments* rather than his *Wealth of Nations* to which Sen refers most often, and similarly it is Marx’s more explicitly philosophical works rather than *Capital* that appeal to him.¹ In the course of a stellar academic career, Sen has published more than two dozen books and countless articles. After writing his Ph.D. at Cambridge University he taught economics at Jadavpur University, Calcutta, the Delhi School of Economics, Oxford, the London School of Economics, and Harvard before being elected Master of Trinity College, Cambridge, in 1998. In 2004 he returned to Harvard as Lamont University Professor, Professor of Economics and Philosophy. The combining of these two disciplines in the title of his chair speaks volumes.

In 2009 Sen published a major book, *The Idea of Justice*, which summarizes and extends many of the most important themes he has developed over the last quarter century.² But before giving an account of this work and its importance, it may be helpful to consider briefly a few of the topics he has addressed throughout his career that are of direct relevance to the kind of issues

with which readers of *Ethics & International Affairs* are concerned. Consider first the issue of economic versus political rights. It is sometimes argued that poor countries cannot afford to be too concerned with political rights until the economic needs of their citizens are met: As is often stated with rhetorical flourish, political rights mean nothing to someone who is starving. In a number of books and articles, most notably *Poverty and Famines: An Essay in Entitlements and Deprivation* and *Development as Freedom*, Sen argues persuasively that this argument is based on a false opposition.³ Deprivation largely takes the form of the absence of an entitlement to some good, rather than the absence of the good itself; thus, in most, if not all, famines the problem is not an absolute absence of food, but the fact that some people, as a result of poverty, or even perhaps of government policy, do not possess an entitlement to the food that is available. Doing something about this situation is essentially a matter of politically empowering the deprived. In a striking observation, Sen states flatly that there has never been a famine in a country with a free press and a tradition of government by discussion; in other words, when potential victims of famine are able to publicize their plight, governments will be forced to respond. Famines take place when authoritarian governments suppress information and allow them to develop – Sen’s initial reference point here being the Bengal famine of 1943, when India was ruled by the British and which he observed first-hand as a child, but there are many modern examples.

Entitlements are also at the heart of his work on gender. Sen’s most well-known article on the subject first appeared in the *New York Review of Books* in 1990 with the striking title “More than 100 million women are missing.”⁴ He arrives at this figure by pointing out that in North America and Europe the ratio of women to men is typically around 1.05 or higher to 1, but in South Asia, West Asia, and China the ratio can be as low as 0.94 to 1. At birth, there are typically 1.05 boys for every girl, but nature seems to favor the latter, and overall the figures are reversed by the time an age cohort reaches adulthood, except in the areas specified above. Why is this? Intuitively, one might think that this shift in the ratio was an effect of poverty, but Sen’s figures suggest that this is not the case. For example, in Sub-Saharan Africa, which is at least as poor as the regions

cited above, the ratio is 1.02 women for every man; within India rates vary from a low of 0.86 in Punjab to a high of 1.03 in the generally poorer state of Kerala. To simplify a complex story, the solution to this puzzle is the observation that where women are employed outside the home and have a degree of economic independence they are able to make effective their own entitlement to food and other goods, and that of their daughters; absent this independence they are at the mercy of men who will often neglect female children.

One final example of the relevance of his work for international ethicists concerns the wider issue of cultural relativism, and the alleged Western origin of scientific rationality and notions, such as human rights. In a string of engagements over the years with “relativists” in the Development Studies community, culminating in his book *The Argumentative Indian*, Sen has argued that, contrary to the stereotype of Indian culture as spiritually-oriented and mystical (and therefore unconcerned with issues of social justice), there are strong Indian philosophical traditions that stress the importance of rational argument and the value of tolerance.⁵ Classic Sanskrit texts such as the *Laws of Manu* and the *Bhagavad-Gita* are as illuminating on the subject of justice as most works within the Western canon, and rulers such as Ashoka and Akbar were considerably more tolerant and rational than their Western contemporaries. Sen is a strong supporter of so-called Enlightenment values, but he resists the idea that these values are necessarily tied to Western ways of thought. Reason, justice, and liberty are not uniquely Western ideas that the rest of the world are invited to acknowledge and adhere to; they are part of the common heritage of humanity. In this, his position contradicts Western triumphalism but also the kind of post-colonial theory that denigrates these notions as the product of Western imperialism.

Sen’s interest in, and reliance on, Indian concepts of social justice and rationality informs his latest book, *The Idea of Justice*, which is a major contribution to, but also critique of, the enterprise of theorizing justice with which the name of John Rawls is now inevitably associated. It is generally agreed that Rawls was the most important political theorist within the Anglo-American world since John Stuart Mill, and his masterwork, *A Theory of Justice*, is at the

center of modern thinking on its subject. ⁶ Still, Rawls's work has been much criticized (and Rawls himself has acknowledged that his original formulations were, in certain respects, inadequate). ⁷ Most of his critics within the tradition have, in effect, attempted to save Rawls from himself, suggesting ways in which his approach can be modified to cope with the problems it allegedly creates, or fails to deal with – most notable the issue of the international dimension of justice, which for Rawls cannot involve redistributive social justice, a conclusion his critics regard as perverse. If inequalities within societies need to be justified, surely the far greater inequalities that exist between societies cannot be ignored? Rawls responded to such criticisms in an important partial revision to his theory, *The Law of Peoples*. His definition of a 'people' requires that it have a moral nature and political institutions; he argues that there is no 'global people' and therefore no basis for global redistributive justice. His critics have not been convinced ⁸

Sen is also much engaged by the problem of global justice, but he sees this as symptomatic of much wider problems with Rawls's project, and *The Idea of Justice* can be understood as an attempt to respond to these wider problems. Indeed, the book almost takes the form of an implicit dialogue with Rawls and the Rawlsians, and it is worth noting that Sen has dedicated this work to John Rawls.

To follow the argument it is necessary to spend a little time setting out the shape of the Rawlsian project, so that we can see what Sen is getting at. The starting point is that whereas much political philosophy in the mid-twentieth century was concerned with language and the meaning and use of words, Rawls harked back to an older tradition by focussing on substance. Thus, while most philosophers asked how the word "justice" is generally used, Rawls is much more ambitious: he wants to be able to say that such-and-such a social arrangement is or is not "just." His aim is to create "ideal theory," a standard against which actual policy choices, when they arise, can be judged. He begins by defining justice as "fairness" and then, in *A Theory of Justice*, describes a procedure for cashing out this notion. Employing the well-worn concept of a "social contract," but with some twists of his own, he generates the principles for

establishing just institutions in a society: equal liberty for all, fair equality of opportunity, and material differences to be justified only on the basis that they benefit the least advantaged. These are quite radical principles (although socialists object that they still allow for substantial differentials) and they are taken to be of universal relevance. In his earlier work, Rawls holds that only liberal societies organized on these lines can be described as just, although later, in the *Law of Peoples*, he does acknowledge that some non-liberal societies could be, if not actually just, at least “well ordered” and “decent.”

Sen accepts the general proposition that justice should be understood as fairness, but finds many features of Rawls’ model troubling – and troubling for reasons that students of international ethics will have no difficulty in recognizing and sympathizing with. First, there is the contractarian nature of Rawls’s work, which requires us to see justice as the product of an agreement among members of a clearly defined society; Sen agrees with those critics of Rawls who find this problematic under modern conditions. Rawls assumes for the purpose of his model that societies are discrete, self-sufficient, self-contained entities into which people are born and which they leave by death. This is clearly not the case in reality, and, even if it were, decisions made within one society can have serious consequences for others – one only has to consider the issue of environmental degradation to see that this is so. The point is that if justice is defined as the product of a contract, the interests of non-contractors—foreigners, future generations, perhaps nature itself—may well be neglected. This is actually a common criticism of Rawls and Rawlsians, and Charles Beitz and Thomas Pogge have suggested that perhaps the whole world should be regarded as a “society” for the purposes of this social contract. As Sen points out, however, this will not do – the idea of society presumes a degree of global unity that simply does not exist.⁹ It is the very idea of basing justice on a contract that is problematic, not the details of the contract.

Rawlsian critics of Rawls are generally much less concerned with the second feature of *A Theory of Justice* that exercises Sen, namely Rawls’s emphasis on the importance of “ideal theory” or what Sen calls a “transcendental” approach to justice, the desire to create an account of justice that is universal and

necessary, that applies everywhere, and at all times. Sen doubts that a single account of this kind is either possible or necessary. There are many possible theories of justice. In the beginning of the book he tells the engaging story of three children, Ann, Bob and Carla, who are quarrelling over the fate of a flute (p. 12). Ann claims the flute on the basis that she is the only one who can play it, Bob claims it because he has no other toys to play with whereas the others do, and Carla's claim is based on the fact that she made the flute in the first place. All of these statements are taken to be true, and Sen's point is that one can produce intuitively plausible reasons for giving the flute to any one of the children. Utilitarians – and for different reasons, Aristotelians – would favour Ann¹⁰, egalitarians Bob, libertarians Carla, but the real point here is that there is no reason to assume, as Rawls and most of his followers do, that we have to decide which of these answers is the right one. Sometimes there is simply a plurality of “right” answers. The idea that there is only one kind of just society – a liberal society defined by principles set out in Rawls' model – and that all others represent a falling off from this ideal does not seem a plausible response to the pluralism that undoubtedly exists in the modern world.

Staying with the critique of “ideal theory,” Sen also contests the practical value of establishing an ideal in this way. In defence of ideal theory it is generally argued that an account of what a just world would look like gives us a yardstick against which to measure particular policies, but Sen observes that this is much less helpful than it might at first sight seem to be. In practice, we measure one possible policy against another possible policy, and not against an ideal; Sen uses another simple analogy to make the point: if asked to say whether a Van Gogh or a Picasso is the better painting it hardly helps to be told that Da Vinci's *Mona Lisa* is the best painting of all time (p.101). This is not a particularly good analogy, since what constitutes a “better” painting is unclear, but the point Sen is trying to get across is clear enough, namely, that pursuing justice is actually about making comparisons; we ask ourselves whether this policy will make the world a somewhat better place as opposed to that policy, and an ideal world contributes very little, if anything, to this process of comparison.

The third point Sen raises against Rawls and the Rawlsians concerns the importance they place on establishing just *institutions*. The basic idea here is that if you can get the institutions right you do not need to worry about actual human behavior; essentially, the assumption is that, as Kant put it, even a “race of devils” could, if intelligent, produce just institutions and a just society.¹¹ This position is, of course, particularly problematic at the international level, where the institutional structure is weak by comparison with the sovereign state. This has led some Rawlsians to propose highly implausible, and probably undesirable, shifts toward global government (consider, for example, Thomas Pogge’s notion of a “democracy panel,” which would determine whether particular regimes were democratic and thus deserve to be treated as sovereign and entitled to dispose of their natural resources), while other political philosophers, most notably Thomas Nagel, have recently declared that global justice is simply impossible to achieve given the implausibility of such schemes.¹²

Here Sen is particularly innovative and illuminating. Drawing on the Sanskrit literature on ethics and jurisprudence, he outlines a distinction between *niti* and *nyaya*; both of these terms can be translated as “justice” but they summarise rather different notions (pp. 20 ff). *Niti* refers to correct procedures, formal rules, and institutions; *nyaya* is a broader, more inclusive concept that looks to the world that emerges from the institutions we create, rather than focusing directly on the institutions themselves. Sen sees this distinction as visible in European thought. Theorists such as Hobbes, Locke, Rousseau, Kant, and, most recently, Rawls look to the establishment of correct institutions, while writers such as Adam Smith, Wollstonecraft, Bentham, Marx, and Mill take a more comparative approach, looking holistically at social realizations that are certainly the product of institutions, but also of other factors, including human behavior.¹³

Smith’s work in *The Theory of Moral Sentiments* is particularly important to Sen because, from within this second Enlightenment tradition that Sen values, it offers an approach to the notion of “fairness” that is highly attractive. Whereas Rawls employs an elaborate fiction in order to arrive at his notion of fairness (contractors are supposed to choose principles under a hypothetical “veil of

ignorance” wherein they are ignorant of certain key facts about their own position) Smith asks instead, what would an “impartial spectator,” someone (or several someones, because there could actually be numerous impartial spectators surveying the scene from different vantage points) observing from the outside make of a particular state of affairs.¹⁴ This is much less cumbersome and complicated a notion than that of the original position, and it has the added advantage of not pretending to be a precise exercise. It invites us to trust our capacity to identify injustice, if we can but project ourselves out of our natural partiality for our own interests.

Sen’s critique of conventional justice theory is developed in Parts I and II of *The Idea of Justice* alongside an elaboration of the notion of social choice, which is crucial to his understanding of how we actually compare the impact of different policies. It is important here not to confuse the theory of social choice with what some economists call “rational choice theory.” The latter assumes that individuals are rigidly self-interested, and indeed defines rationality as the pursuit of self-interest; whereas Sen insists that fairness involves a reasonable concern for the interests of others, and his account of social choice theory reflects this insistence—drawing heavily on his work on welfare economics, including such famous papers as the engagingly titled “Rational Fools” of 1977.¹⁵

In Part III, Sen examines “The Materials of Justice,” with a particular focus on the human capabilities approach, which he pioneered, along with Martha Nussbaum, in the 1980s.¹⁶ Part IV, “Public Reasoning and Democracy,” contains a defence of his view that democracy is best defined as decision-making by discussion rather than simply as a matter of procedures, such as regular elections. Social choice theory undermines the idea that there are viable democratic procedures for aggregating the preferences of voters, which makes a *niti*-oriented approach to democracy problematic, but the value of government by discussion is readily understandable in terms of *nyaya* – the kind of society that it produces. The final section of the book defends the proposition that nowadays a concern for justice must have a global dimension.

Before attempting an overall assessment of *The Idea of Justice*, it may be helpful to say one or two things about the book as a text. I have tried to provide a concise summary of the book's contents, but in so doing I have been obliged to take on the near-impossible task of providing a summary of his work of the last quarter century, because this volume effectively pulls together arguments he has made previously into one set of covers. This does mean that those already familiar with Sen's work will find little that is new here (for such readers the recent collection *Against Injustice: The New Economics of Amartya Sen* will be much more useful¹⁷) but, by the same token, the book provides an excellent introduction to Sen's work for those who are *not* already aficionados. Still, both the cognoscenti and the neophytes should be warned that, because the book draws extensively on earlier writings, it contains quite a lot of repetition. Moreover, we must keep in mind that Sen knows, or knew, most of the people with whom he debates the nature of justice. This, combined with the fact that Sen is a very generous writer, even toward authors whose positions he opposes, makes one feel occasionally that the argument is a little too cosy, and that a somewhat more acerbic approach would make for a better read. Finally, although Sen enlivens the text with anecdotes and engaging stories (such as that of Ann, Bob, Carla and the flute), there are some sections of the book that are addressed to his fellow professional welfare economists and political philosophers, and – although these sections do not contain the kind of forbidding mathematical apparatus used by many modern economists – they are still hard-going for the general reader.

So much for the down-side, which is far outweighed by the advantages that follow from engaging with Sen's arguments. For the general reader, Part IV, on democracy and human rights, will perhaps be of the greatest interest because it deals directly with practical issues; this is where one might hope for concrete advice based on his theory. In fact, some critics have actually identified a certain lack of substance to the argument, suggesting that Sen offers rather less in the way of policy advice than we might have hoped for - but this is to miss the point. Sen does not pretend to offer an ideal in the manner of Rawls, but rather to inculcate certain habits of mind. He invites us to reason impartially and non-

parochially: we should not assume that our particular way of doing things is the only way; we need to examine our predilections and practices with the eye of Smith's impartial spectator. His discussion of capital punishment (p. 403ff) exemplifies this kind of reasoning; it is actually clear that he opposes the death penalty, but the main thrust of the argument is to suggest that those countries that employ it – in particular China and the United States – should re-examine the practice in the light of experience elsewhere. For example, by refusing to take into account anti-capital punishment arguments made in European or Latin American courts, the US Supreme Court is denying itself access to relevant information; indeed, reflection on cases of past injustice in the US itself might cause proponents of capital punishment some unease. In short, Sen argues that proponents of the death penalty should try to become impartial spectators with respect to their own position, and, indeed so should opponents of capital punishment.

If we apply this kind of reasoning more generally, he suggests, we will realize that there are many aspects of today's world that cannot be justified even though, in a superficial way, they seem to work to the advantage of those of us who live in the advanced industrial world. The inhabitants of rich and powerful countries have a special obligation to adopt the viewpoint of an impartial spectator, assuming the perspectives of those whose life-chances are severely restricted compared to their own—specifically, those who suffer from malnutrition, poverty, and oppression. But something more than this is required, for the rich and powerful need also to recognise and respect the *interests* of the poor and powerless. The peoples of the advanced industrial world need to realize that what they do will have a profound effect on everyone else, whether it is intended or not. Interdependence at all levels is such that the decisions taken by the United States in particular have implications everywhere, whether in respect to addressing issues of terrorism or the global financial crisis.

Throughout *The Idea of Justice*, Sen invites us to engage in public reasoning in pursuit of justice, not by reference to some kind of ideal, but in very practical terms, comparing the impact of particular policies, and reflecting on the way things are done in the name of impartiality and fairness. He invites us to

consider social arrangements as wholes, to assess their impact in broad comprehensive terms without becoming obsessed with procedures or formal rules—in short, to embrace *nyaya* rather than *niti*, Smith rather than Kant. This kind of public reasoning can no longer be confined to particular societies but must now be global in scope and range. Fortunately, the very interdependence that demands that we take into account the interests of others also helps us to see things from their perspective. Sen recognizes that this will not be easy. There is no ideal to guide our discussions, and the comparisons he invites us to make will cause us to question our own interests, which is never comfortable. Still, in his own work, and indeed in his own life, he offers us a paradigm of what it means to be a global impartial spectator.

¹ Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations* (London: Penguin Classics, 1999); Adam Smith, *The Theory of Moral Sentiments* with an Introduction by Amartya Sen (London: Penguin Classics, 2009).

² Amartya Sen, *The Idea of Justice* (Cambridge MA: Belknap Press of Harvard University Press, 2009.) Page references in this article are to this book.

³ *Poverty and Famines* (New York: Oxford University Press, 1983), *Development as Freedom* (New York: Anchor, 2000).

⁴ “More than 100 million women are missing,” *New York Review of Books* Vol. 37, No 20, December 20th, 1990.

⁵ *The Argumentative Indian* (New York: Farrar, Straus & Giroux, 2005).

⁶ John Rawls, *A Theory of Justice* Original Edition (Cambridge MA: Belknap Press of Harvard University Press, 1970/2005).

⁷ See John Rawls, *Political Liberalism*, 2nd Revised Edition (New York: Columbia University Press, 1996), which represents a quite substantial shift in his thinking. Oversimplifying somewhat, instead of there being simply one notion of justice, the liberal notion, Rawls now sees justice as being the product of an overlapping consensus between reasonable metaphysical positions.

⁸ John Rawls, *The Law of Peoples* (Cambridge MA: Harvard University Press, 1999). Rawls’ international theory is discussed in Chris Brown “John Rawls, *The Law of Peoples* and International Political Theory,” *Ethics & International Affairs*, Vol. 14, pp. 125-133, 2000.

⁹ Charles Beitz, *Political Theory and International Relations*, Revised Edition (Princeton NJ: Princeton University Press, 1999); Thomas Pogge, *Realizing Rawls* (Ithaca, NY: Cornell University Press, 1989).

¹⁰ A utilitarian would argue that the greatest happiness would come from listening to the flute in the hands of an expert, while an Aristotelian would argue that it was the *telos* of the flute, its purpose, to be played as expertly as possible.

¹¹ “The problem of organizing a state, however hard it may seem, can be solved even for a race of devils, if only they are intelligent,” Immanuel Kant, *First Supplement of the Guarantee for Perpetual Peace* in H. S. Reiss ed. *Kant: Political Writings* (Cambridge: Cambridge University Press, 1970) p. 109. Of course, for Kant right intention is everything, so the devils would not actually be just even though the laws forced them to behave justly.

¹² Thomas Pogge, *World Politics and Human Rights: Cosmopolitan Responsibilities and Reforms* (Cambridge: Polity Press, 2002) see especially Chapter 6. Thomas Nagel, “The Problem of Global Justice,” *Philosophy and Public Affairs*, Vol. 33, No. 2, pp. 113 – 147, 2005.

¹³ As well as Smith et al, Sen might have drawn attention here to sixteenth century humanists such as Montaigne or, for that matter, Shakespeare, whose *nyaya* approach to social life was replaced in the troubled seventeenth century by such practitioners of *niti* as Rene Descartes and Thomas Hobbes; Stephen Toulmin’s *Cosmopolis: The Hidden Agenda of Modernity* (Chicago: University of Chicago Press, 1990) is an important study of this shift in European consciousness.

¹⁴ See *Theory of Moral Sentiments* Part III, Chapter 1.

¹⁵ Sen ‘Rational Fools: A critique of the Behavioural Foundations of Economic Theory’ *Philosophy and Public Affairs* Vol. 6, No 4, pp. 317 -344, 1977.

¹⁶ *Development as Freedom* is an important text here, also Sen and Martha Nussbaum eds. *The Quality of Life* (Oxford: Clarendon Press, 1993).

¹⁷ Reiko Gotoh and Paul Demouchel eds. *Against Injustice: the New Economics of Amartya Sen* (New York: Cambridge University Press, 2009). With essays on neorepublicanism by Philip Petit and gender justice by Martha Nussbaum, as well as studies on capabilities and reasoning, this collection ranges more widely than the reference to economics in the title would suggest.