



## The Protean Face of Justice (From Plato to Amartya Sen)

C.S. Chakravarthy, Research Scholar, Department of Law, Osmania University,  
Hyderabad- 500 007, Telangana State

**Abstract.** Plato in his philosophy gives very important place to the idea of justice. He used the Greek word 'Dikaisyne' for justice which comes very near to the word 'morality' or 'righteousness'. It properly includes within it the whole duty of man. It also covers the whole field of the individual's conduct in so far as it affects others. Plato contended that justice is the quality of soul, in virtue of which men set aside the irrational desire to taste every pleasure and to get a selfish satisfaction out of every object and accommodated themselves to the discharge of a single function for the general benefit. Plato was highly dis-satisfied with the prevailing degenerating conditions in Athens. The Athenian democracy was on the verge of ruin and was ultimately responsible for Socrates's death. Plato saw in justice the only remedy of saving Athens from decay and ruin, for nothing agitated him in contemporary affairs more than amateurishness and political selfishness which was rampant in Athens of his day in particular and the entire Greek world in general.

**Key words:** quality of soul, justice, of justice in law, politics, morality, ethics

*"the idea of justice is so ancient that everything has been said about it and it is so modern that it constitutes an everchanging context of contemporary society."* - Holland and Schwarzenber<sup>1</sup>

### I. Introduction

Justice is a relative concept and it has ever been a changing as well as challenging quest for human society. This flexible and dynamic concept of justice varies from time to time and place to place. Since its birth is closely associated with the dawn of human civilization, it has, always, been a matter of immense interest of mankind. Earnest Barker<sup>2</sup>, in his seminal work, "*Principles of Social and Political Theory*", noted that the term 'justice' is derived from the Latin word *jus* which embodies 'the idea of joining or fitting, the idea of bond or tie'. In his view, the values of liberty, equality and fraternity are categorical imperative for an organized system of human relations. Justice itself, according to him, is a value which represents a synthesis of different values<sup>3</sup>. Thus, the entire concept of justice is concerned with the adjustment of human relations. Against

this background, an attempt has been made in this paper to give an overview of different opinions of legal and political philosophers on the concept of justice in order to increase our understanding of the meaning and definition of justice in law, politics, morality, and ethics and identify the common thread in the modern theories of justice. It shows that while the focus of traditional theory of justice was on individual, the current theories regard justice as a modicum for realization of the aspiration of balance between individual needs and collective good.

**II. Greek philosophy and concept of justice:** In the history of political philosophy, which originated in the sixth century Greece, **Pythagorous**<sup>4</sup> (580/572–500/490BC) of metaphysical school, was first who defined the concept of justice. Justice, according to Pythagorous, was a number; it was a number multiplied into



itself- a square number. A square number is a perfect harmony because it is composed of equal parts, and the number of the parts is equal to the numerical value of each part. If justice is defined as a square number, it follows that justice is based on the conception of a State, composed of its equal parts. A number is square so long as the equality of its parts remains; a State is just so long as it is distinguished by the equality of its parts, and justice is the preservation of such equality. After more than 150 years, it was **Plato**, who adopted this concept of justice and gave it more spiritual content and a deeper truth.

But, before Plato's *Republic*, **Sophists philosophers**<sup>5</sup> also defined the concept of justice. The sophists were foreigner professional teachers of ancient Greece, who were trained in argument. **Thrasymachus**, was the sophist of late 5th century BC, who was introduced by Plato in book I of *Republic* as a supporter of the theory, said - "*justice is the interest of the stronger party*"<sup>6</sup>. It meant that there can not be any conflict between what the sovereign power in a community does and what that community recognizes to be right, since the action of the sovereign power are meant by right action.

The personal agency by which the above suggestive ideas were turned into explicit philosophy was Socrates (469-399BC). He is, generally, considered as father of western political philosophy. He said that Athenians must be taught not to accept traditional morality, but to discover rational principles of conduct and base their social life upon them. In the traditional concept of justice, the person who gave it an idealist turn was Plato (428-348 BC). He was disciple of Socrates. Richard Lewis Nettleship, in his '*Lectures on the Republic of Plato*' has

elucidated-

*'Justice, in Plato's sense, is the power of individual concentration on duty. If a soldier is just in this sense, he is, of course, a brave man; if a man in subordinate position is just, he, of course, accepts and maintains authority, or is 'self -controlled'. Justice, therefore, is really the condition of the existence of all the virtues; each of them is a particular manifestation of the spirit of justice which takes different forms according to a man's function in the community. In modern phrase it is equivalent to sense of duty.'*<sup>7</sup>

Plato has used the Greek word '*Dikaisyne*' for the term Justice, which comes very near to the word morality. He struck an analogy between the human organism on one hand and social organism on the other. Human organism, according to Plato, contains three elements- Reason, Spirit and Appetite. An individual is just when each part of his or her soul performs its functions without interfering with those of other elements. Corresponding to these three elements in human nature, there are three classes in social organism- Philosopher class or the ruling class which is the representative of reason; Warriors class or soldier class that defend the country, is representative of spirit; and the appetite instinct form community which consists of farmers, artisans, and are the lowest rung of the ladder. Thus, weaving a web between human organism and social organism, Plato asserted that functional specialization demands from every social class to specialize itself in the station of life allotted to it. Justice, therefore, to Plato, is like a manuscript which exists in two copies, and one of these is larger than the other. It exists both in individual and in the society. But,



it exists on a larger scale and in more visible form in the society. Individually 'Justice is a human virtue' that makes a man self consistent and good; socially, Justice is a social consciousness that makes a society internally harmonious and good. Thus, to Plato, justice is a sort of specialization. It simplifies the will to fulfill the duties of one's station and its habitations, therefore, is in the mind of every citizen who does his duties in his appointed place. His concept of justice is very much identical to Indian *Varna Dharm*.

After Plato, **Aristotle**(384–322BC) who is considered as father of Political Science, defined justice. Like his master Plato, he also believed that justice is the very essence of the State, and no polity can endure for a long time, unless it is founded on a right scheme of justice. It is with this consideration in view that Aristotle proceeds to set forth his theory of justice. The theory, however, was not developed by him in isolation, the *Republic* of Plato served as a great guide. But, Aristotle did not want to imitate Plato. He had his own convictions about things which impel him to speak the truth, howsoever, bitter.

Aristotle regarded justice as a complete virtue. For him, the end of the State is the promotion of good life. The realization of this end depends on the realization of a life of common action. The life of common action may become possibility, provided the citizens of a state act in conformity to the laws of that state. That is to say, they should develop in themselves that great quality which is known as law abidingness. A just and law abiding citizen, according to Aristotle, is one and the same. Since law abidingness is a complete virtue, in that sense, justice is also a complete virtue.

Justice, therefore, to Aristotle is the name of that great moral virtue and excellence of character which is essential for dealing with social and public relation. This has been called by Aristotle as Complete Justice.

In the field of implementation, Aristotle has differentiated between distributive justice and corrective justice. To this, he has given the name of Particular Justice. The particular justice of Aristotle is based on the conception of the state as an association of equals. As a member of this association of equals, a person

→has his rights in relation to the whole,

→has also his rights as against each other.

To provide a system of rights in relation to the whole is the business of the distributive justice. It is the work of the corrective justice to protect these rights against the infringement of others. Aristotle's *Distributive Justice* is the name of that principle of distribution by which goods, services, honour and offices are distributed among the citizens of the state. It is the other name of proportionate equality. It recognizes and preserves distinction between the worthy and non-worthy. It counters equality of the unequal and ensures that a man's rights, duties and rewards should correspond to his merit and social contribution. The second branch of Aristotle's particular justice is *Corrective Justice*. It is the business of the corrective justice to see that the proportionate equality so established may not be disturbed. In a nutshell, we can say that Aristotelian justice is based on the principle "everyone should have his own" and Platonic justice is based on the principles "everyone should do his own".



The death of Aristotle in 322 BC marked the end of old and beginning of new era in Greek philosophy. The city states after his death ceased to be the centre of political life and became small units in the vast empire created by Philip of Macedon and Alexander - the great. This brought great change which is reflected in the doctrines of the Stoics and the Epicurians.

The founder of Epicurean philosophy<sup>8</sup> was **Epicurus** (341 – 270 BC). They sought to make human happiness and virtue independent of the political environment. It was held by them that obedience to law is rational only to the extent it promotes individual self interest. Justice has no existence in the abstract; it infers merely in some convention for mutual advantages.<sup>9</sup>

### III. Roman Thinkers and Concept of Justice

When internal clash and external invasions destroyed Greek city states, Rome became centre of civilization in Europe. The Romans did not possess the intellectual qualities of the Greeks; they had no speculative bent of mind, but were a highly practical and legalistically minded people with a strong sense of civic loyalty and capacity for self discipline. They established a world wide empire and gave to mankind a highly developed system of law and administration. For several centuries, Roman thinkers and teachers were the medium through which Greek philosophy was interpreted and spread throughout the world. In the Roman political thinkers **Polibious**, **Cicero** and **Seneca** are worth consideration. The conception of law of nature and principal

of justice common to all men was accepted in Roman period. The Roman

mind was essentially legal not philosophical, but Cicero has contributed a little bit on the concept of justice. According to **Cicero** (106–43BC), justice consists in providing equality of opportunity to all and to restore and give everyone his right. He has devoted a large portion of “*De Republica*” to the discussion of justice. Basically, it is imitation of Plato’s *Republic*.

### IV. Medieval philosophy and concept of justice

The downfall of Roman Empire (476 AD) was marked by the rise of Christianity in Europe. The period from 5th century to 15th century A. D. is considered as the age of medieval political philosophy. In this period, politics was dominated by religious fathers. These Christian fathers laid stress on the autonomy of the Church. Among them **St. Ambrose** (340–397AD), **St. Augustine** (354–430AD) and **Pope Gregory** (540–604AD) are worth consideration. **St. Augustine** is the greatest among the fathers of the Roman church. According to him, justice and peace are the qualities of the city of God; therefore they can be realized only in a society which symbolizes the city of God and not in a society which represents the Kingdom of Satan. Thus, there could be no justice in the pagan states which flourished before the appearance of Jesus Christ; it is only a Christian state which can realize it.

In the middle age, the only figure who has philosophical significance was **St. Thomas Aquinause** (1227–1274AD). It was he who represented the totality of medieval thought. His theory of law and justice constitutes the most important part of his political philosophy. Whether a government is lawful or unlawful, just or unjust is to be determined by the fact whether that government acts in



accordance with the canons of law and the principles of justice<sup>10</sup>. His theory of law and justice is the channel through which the doctrines of Aristotle, Stoics, Cicero, the Roman imperial jurists and St. Augustine blended into a round whole and were transmitted to modern times.

Following the tradition of Roman jurists, St. Thomas defined justice "*as a fixed and perpetual will to give to everyone his own rights*<sup>11</sup>". This definition of St. Thomas Aquinause is in close conformity with the Aristotelian principle of distributive justice.

### V. Modern Age and Concept of Justice

The Conciliar movement<sup>12</sup> marked the end of an old age and the beginning of a new era in political theory. It signifies the passing away of the middle age, and the birth of the modern world with its reassertion of the humanistic and scientific outlook. The Renaissance is, also, a movement which transformed medieval into modern Europe. Generally, the period after 16th century is considered as the era of modern political theory and **Niccollo Machiavelli** (1469-1527) is considered first modern thinker. Among modern political theorists Utilitarians, Idealist, Individualist, Socialist, Anarchist and Liberal thinkers are main and all these thinkers realized the importance of Justice but they were unable to define it. The Idealist philosopher **Hegel** (1770-1831) thought that to maintain justice is the right and the duty of public authority but he does not deal with the concept of justice anywhere. Justice for him was a matter for the courts, which had the task of interpreting and applying the law. Thus, he envisaged no higher conception of justice. Similarly, **Immanuel Kant** (1724-1804) regards punishment as a matter of justice. He states that if the guilty are

not punished, justice is not done. For the utilitarian thinker **Jermey Bentham** (1748-1832) and **J. S. Mill** (1806-1873), justice is basically related with utility. An action is just if it is giving greatest happiness to the greatest number. **Bentham's** idea of justice is merely a subordinate aspect of utility<sup>13</sup>. J. S. Mill, in his book "*Utilitarianism*" has tried to define Justice by listing those things that are commonly classified as just or unjust in the following way-

*First*, it is considered unjust to deprive someone of his legal rights,

*Second*, injustice also comes from depriving someone of something to which he has a moral right to possess,

*Third*, it is considered just that a person receive what he deserves, and unjust that he obtains something what he doesn't deserve,

*Fourth*, form of injustice is to violate an agreement with someone,

*Fifth*, it is considered unjust to show favoritisms and preference in inappropriate circumstances,

*Finally*, the idea of equality is also seen as a component of justice.

Thus, Mill does not present his own theory of justice. To Mill, the standard of justice should be grounded on utility, believed that the origin of the sense of justice must be sought in two sentiments other than utility namely, the impulse of self defence and feeling of sympathy<sup>14</sup>. In defining it, he looks to what other people mean by the term justice. During the nineteenth century, socialist doctrine of justice came into existence. The most extensive work on the idea of justice was done by **P.J. Proudhon** (1809-1865), an anarchist philosopher, who supports the



elimination of all form of compulsory government or state. According to him,

*'Justice demands the realization of an order which is neither communism, nor despotism, nor anarchy, but liberty in order and independence in unity'*<sup>15</sup>,

Now, in the twentieth century, the modern concept of justice is different from traditional concept. The traditional concept focused on the just man. The modern concept, on the contrary, is marked by a shift of emphasis from the idea of a just or virtuous man to that of a just society. The contemporary debate on the nature of justice focuses on the distinction between procedural justice and substantive justice. The champions of procedural justice hold that it is necessary to determine a just procedure for the allocation of social advantages, that is goods and services, opportunities and benefits, powers and honours; then its outcome will automatically be accepted as just. On the contrary, the champions of substantive justice argue that the allocation or distribution of social advantages among various sections of society itself should be just – that is the primary issue, the procedure for making such allocation is a secondary issue. The exponents of procedural justice are – F. A. Hayek (1899 – 1992), Milton Friedman (1912 – 2006), Robert Nozick (1938 – 2002). In his books, '*Road to Serfdom*' and '*Law, Legislation and Liberty*', Hayek suggested that 'the state should positively promote competition and ensure that the market is not reduced to an instrument of distributive justice'<sup>16</sup>. Similarly, Friedman in his creation '*Capitalism and Freedom*' praised competitive capitalism as an essential condition of freedom and opposed all measures of human welfare and social

security<sup>17</sup> and Nozick contended that the State has no authority to redistribute the property of its citizens who were originally its clients<sup>18</sup>.

In contrast to the idea of procedural justice, substantive justice corresponds to the philosophy of socialism. It holds that the test of justice in society consists in ascertaining whether the poor and the under privileged have adequate opportunity to improve their lot. It demands that the opportunities of self-development should be progressively extended to the underprivileged and disadvantaged sections of society.

**John Rawls** (1921-2002) in his well known work "*A Theory of Justice*"<sup>19</sup> as now reformulated in *Political Liberalism*<sup>20</sup> has discovered a method for making procedural justice as an instrument of meeting the requirement of social justice. For this, he propounded a theory which is known as "*justice as fairness*", from which Rawls derived two famous principles of justice-- *the liberty principle* and *the difference principle*<sup>21</sup>. With his theory, he developed his concept through the use of an entirely artificial device that is, original positions, in which everyone decides principles of justice behind a veil of ignorance. This veil blinds people from all the social, political and economic differences. According to Rawls ignorance of these details about oneself will lead to principles which are fair to all. As a result of hypothetical negotiation under such conditions, three principles of justice will be accepted by all, according to Rawls in the following order :

(1). Principle of equal liberty (i.e. equal right to political participation, freedom of expression, religious liberty, equality before the law, etc.)



(2). Principle of fair equality of opportunity (particularly for acquiring offices and positions) and

(3). Difference principle which implies that any departure from equal distribution of the primary goods can be justified.

Thus, according to Rawls a special reward for extraordinary ability and effort to any individual can be treated as just only if it results in the greatest benefit to the least privileged. The rule of allocation “*to each according to his ability*” can be applied only if higher efficiency of the concerned individual results in ameliorating the condition of the least privileged. Rawls concept implies that in order to strengthen a chain, we should start with strengthening its weakest link on each occasion.

John Rawls has given his ideas in 1971, since then it has been much discussed, and attempts have been made by many others to improve and clarify it, not least by Rawls himself. One of the attempt is made by **Martha C. Nussbaum** in his book “*Women and Human Development*”. She has reinterpreted Rawls argument from the perspectives of substantive justice, an idea that she got from **Amartya Sen**. He is of the view that universalism and national particularism can not give us an adequate understanding of the demands of global justice. Thus, there is a need for a third conception with an adequate recognition of the plurality of relations involved across the globe<sup>22</sup>.

During the 1980s, Nussbaum began a collaboration with Amartya Sen on issues of development and ethics. This culminated in the publication of “*Quality of Life*” in 1993. With Amartya Sen, she

promoted the capabilities approach to development, which views capabilities (substantial freedom, such as the ability to live to old age, engage in economic transactions or participate in political activities) as the constitutive parts of development, and poverty as capability deprivations. Nussbaum further developed this approach in “*Frontiers of Justice*” in 2006. According to her, procedural justice based approach of contractarianism fails to address areas in which symmetrical advantage does not exist. Nussbaum argues that the contractarian approach cannot explain justice in the absence of free, equal and independent parties in an original position in *which “all have something with which to bargain and none have too much”*. Thus, procedural perspective alone can not provide an adequate theory of justice. To address this perceived problem, Nussbaum introduces the capabilities approach, an outcome oriented view that seeks to determine what basic principles, and adequate measure thereof, would fulfill a life of human dignity. She frames these basic principles in terms of ten capabilities, i.e. real opportunities based on personal and social circumstances.

The **ten capabilities** are: Life, Bodily health, Bodily integrity, Senses, imagination and thought, Emotions, Practical reasons, Affiliation, Other species, Play and Control over one’s environment political and material<sup>23</sup>.

Thus, Nussbaum is concerned to promote a just distribution of a qualitatively diverse set of capabilities among members of every society on earth. Her capabilities approach aims to ensure that each and every individual has the capability to function in a truly human way. The list of capabilities given



by her are minimum criterion of social justice in all the societies.

Recently, noble **laurate Amartya Sen** has presented an alternative approach while criticizing the mainstream theories of justice, in his writing "*The Idea of Justice*", said that there was no such thing as "perfect justice". Justice was relating to a situation and instead of searching for "ideal justice", stress should be in removing more visible forms of injustices such as subjugation of women, poverty and malnutrition.

Sen is of opinion that Indian Philosophy has always made distinction between "institutional justice" and "actual realization of justice", which has already been denoted by two Sanskrit words "*nite*" – the principle of justice; and "*nyaya*" – delivering justices on the ground. In his book, there is an argument for *nyaya*. Further, Prof. Sen has said that the idea of justice demands comparisons of actual lives that people can lead, rather than a remote search for ideal institutions. That is what makes the idea of justice relevant as well as exciting in practical reasoning. Sen has explained concept of justice in his book with the example of the story of "*The three children and a flute*". Sen, basically, inspired by the thoughts of Adam Smith, Mary Wollstonecraft and Karl Marx said: "*Justice and a perfect social order has to be non-parochial, inclusive and human. It is based on reasoning and helps to remove inequalities. Justice must be free from the domination of the will of the majority and one that touches lives that people actually live.*"

### Conclusion

The above elaborated concept of Justice, as pronounced by several

philosophers from time to time, makes it clear that it has been dynamic and lively concept in the history of political and legal philosophy. In the ancient philosophy, the concept laid stress on just man. To Plato, Justice is the supreme virtue which harmonizes all other virtues<sup>24</sup>. He identified justice with happiness<sup>25</sup>. Aristotle's justice implies a certain degree of equality, this equality might be either arithmetical or geometrical, which are based on identity and proportionality as well as equivalence. Arithmetical equality leads to commulative justice and geometrical equality to distributive justice. The Christianity introduced into the concept of justice – peace, love and charity. This concept got a secular outlook after the liberating effect of Renaissance and the complete idea of justice in the modern philosophy could be seen in the thoughts of natural law school. Locke, Rousseau and Kant find the content of justice in the synthesis of liberty and equality. Kant says, "*Justice is the external liberty of each person, limited by the liberty of others.*"<sup>29</sup> During the nineteenth century, with the rise of the socialist doctrine, justice was considered a conciliation which is effected between the individual and the whole, which are equally real. Since justice is considered to be the primary goal of a welfare state and the very existence of it rests on the parameters of justice, therefore, greatest contrast, however, found between ancient and modern thinking. In the modern time its emphasis has been shifted on just society. Though, contemporary philosophers, also, think about justice as an important part of morality and present debate on justice is procedural justice *versus* substantive justice. Rawls had tried to balance the need for the least well off maximization.





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