



## Amartya Sen's Idea of Justice and Impartial Spectator for the Question of Injustice

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**Abstract:** *In this study, it has been analyzed Amartya Sen's idea of justice and his proposal "Impartial Spectator" for the question of injustice. In order to understand Sen's idea of justice, his critique on Rawls' theory of justice should be considered. Sen's idea of justice could be read as a critique of Rawls' theory of justice as well as a suggestion of a new approach instead. For this reason, I will explicate Sen's idea of justice through his critique on Rawls' theory of justice. Apart from that, Impartial Spectator is an important concept to understand Sen's idea of justice. Adam Smith proposes the impartial spectator as the standard for moral behaviors in the Theory of Moral Sentiments". Sen takes this notion and uses it in the realm of politics for the question of justice. Sen comes up with the idea of "impartial spectator" as a solution for the question of justice in his works.*

**Keywords:** *Justice, Impartial Spectator, Transcendental institutionalism, Social contract, Fairness.*

### Introduction

Justice has always been one of the main questions of political philosophy throughout history. Justice is related to main critical problems of human beings in terms of socially and politically. Especially some problems such as poverty, liberty, corruption, famine, AIDS, global warming, subjugation of women, unemployment and inequalities have always been associated with the question of justice, and we cannot discuss these problems without dealing with the idea of justice with a serious and critical approach. Today these are not only considered as local or national problems but also global problems. Thus, any discussion and suggestion on the idea of justice is significant, because it obviously enriches our understanding of justice. These discussions on the question of justice enable us to have a critical consideration and rethinking of our view on justice. Furthermore, we see concrete results of these discussions to advance justice and change our life in this sense. For example, if there was no history of

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discussions on justice in terms of liberty and human rights, slavery would remain as an acceptable and just practice in the world. Thanks to these discussions, we look for possible new alternatives and solutions that help us to deal and cope with the unjust acts or policies. My main motivation in this article is to study and conduct a critical examination of the idea of justice in the realm of contemporary political philosophy and to discuss different approaches to the notion of justice. Namely, I will focus on Amartya Sen's idea of justice in relation to those of John Rawls and Adam Smith. Sen's great contribution to the question of justice is that he introduces new perspectives and different approaches to this issue describing it as "realization-focused comparison". This study is to articulate and clarify Sen's idea of justice in this respect.<sup>1</sup>

I argue that Amartya Sen's idea of justice could be seen as a critique of Rawls' theory of justice as well as a proposal of a new approach instead. To that extent, Sen's critique of Rawls' theory of justice is based on his criticism of the "transcendental institutionalism" which refers to tradition of social contract theory represented by Thomas Hobbes, John Locke, Jean Jacques Rousseau, Immanuel Kant and John Rawls. Sen considers Rawls' theory of justice as "transcendental institutionalism" in the realm of social contract theory. Sen mainly deals with Rawls' theory of justice. Instead, he offers "realization-focused comparison" represented by Adam Smith, Marquis de Condorcet, Jeremy Bentham, Mary Wollstonecraft, Karl Marx and John Stuart Mill<sup>2</sup> Among these philosophers, Sen mainly focuses on Adam Smith. Particularly, Sen believes that Adam Smith's "impartial spectator" plays an essential role in deciding for the standards of justice.<sup>3</sup> To this end, I will try to analyze and articulate Sen's idea of justice in reference to its relation to John Rawls' and Adam Smith's ideas. Therefore, to be able to explain Sen's idea of justice, I will examine both Rawls and Smith's influence on Sen's idea of justice. Apart from Rawls' and Smith's influence on Sen's idea of justice, I will focus on Sen's idea of justice through his own suggestions for the question of justice.

### **Rawls' Theory of Justice: "Justice as Fairness"**

John Rawls was the most important political philosopher of twentieth century. *A Theory of Justice*, which was published in 1971, is the major work of John Rawls. It has been the one of the most important works of political philosophy. It also has been mentioned in many citations within the political philosophy. Paul Voice who is the writer of "Rawls Explained" says that *A Theory of Justice* is a sophisticated and revolutionary theory of justice for democratic societies. According to him, this masterpiece gives a new perspective to the political philosophy to argue the justice in a comprehensive way because justice becomes the central problem of political philosophy after this work<sup>4</sup>. In addition, his contemporaries praise this work because of giving a systematic theory of justice and new perspective to the political philosophy.

1 Umut Dağ, "Amartya Sen's Idea of Justice, and Its Relation with John Rawls and Adam Smith", Master Thesis, Middle East Technical University, 2015, p.1.

2 Amartya Sen, *The Idea of Justice*, London: Oxford University Press, 2009, p.7.

3 Sen, *The Idea of Justice*, p.44.

4 Paul Voice, *Rawls Explained*, Chicago: Open Court Press, 2001, p.2.

For example, Robert Nozick, who is the one of the another important contemporary political philosophers, says;

A Theory of Justice is a powerful, deep, subtle, wide- ranging, systematic work in political philosophy which has not seen it's like since the writings of John Stuart Mill, if then, it is a fountain of illuminating ideas, integrated together into a lovely whole. Political philosophers now must either work within Rawls' theory or explain why not.<sup>5</sup>

I will try to analyze Rawls' theory of justice called justice as fairness in details. In doing so, I will analyze his theory of justice through taking into account his famous article *Justice as Fairness* and his major work *A Theory of Justice*.

Before publishing “*A Theory of Justice*”, Rawls wrote an essay called “*Justice as Fairness*” in 1958. This essay is his first essay through which he introduces his theory of justice basically. We can see the core ideas of Rawls' theory of justice in this essay. In other words, this essay gives us strong clues to understand Rawls' theory of justice, in particular his notion of fairness and its relation to justice. Furthermore, the two principles of justice are also introduced in this essay. To constitute a theory of justice with these two principles is the main intention of Rawls' political philosophy. To that extent, the two principles of justice shapes and determines Rawls' theory of justice.

Rawls claims that justice is misinterpreted by classical utilitarianism which represented the prevailing ideas about justice in the twentieth century because classical utilitarianism does not consider justice in relation to the notion of fairness. Subsequently, Rawls claims that justice should be considered in relation to the fairness. According to Rawls, justice and fairness cannot be understood in the same sense. Besides this, there is no hierarchical relation between justice and fairness.<sup>6</sup>To understand the relation between justice and fairness, we should take into consideration the two principles of justice. These two principles of justice is related the notion of fairness and its relation to justice directly. In the “*Justice as Fairness*”, Rawls defines two principles;

The conception of justice which I want to develop may be stated in the form of two principles as follows: first, each person participating in a practice, or affected by it, has an equal right to the most extensive liberty compatible with a like liberty for all; and second, inequalities are arbitrary unless it is reasonable to expect that they will work out for everyone's advantage, and provided the positions and offices to which they attach, or from which they may be gained, are open to all.<sup>7</sup>

Rawls introduces these two principles in the “*Justice as Fairness*” but he does not elaborate these two principles. As well as, we cannot see the relation between these two principles and the theory of justice in a comprehensive way. That is to say, as

<sup>5</sup> Robert Nozick, “Distributive Justice”, *Philosophy Public Affairs*, 3/1 (1973), p.79.

<sup>6</sup> John Rawls, *Collected Papers*, London: Harvard University Press, 1999, p.47.

<sup>7</sup> Rawls, *Collected Papers*, p.48.

being the fundamental component of theory of justice, we see these two principles of justice and elaboration of them in his major work *A Theory of Justice*. For this reason, I would like to analyze these two principles of justice and his theory of justice with the examining his major work. Before analyzing these two principles, I will try to examine what Rawls aims by a theory of justice and why he needs to establish this theory through his critique of classical utilitarianism.

“*A Theory of Justice*” was first published at a time when political philosophy needed a new perspective on the justice. The prevailing idea on justice was represented by classical utilitarianism and it was met with a general skepticism. As well as, positivism as another mainstream philosophical doctrine reduced the scope of political philosophy to conceptual analysis. Both of them were not taken the problem of justice seriously.<sup>8</sup> For this reason, to understand Rawls’ theory of justice comprehensively, we should take his critique of classical utilitarianism into consideration. In “*A Theory of Justice*” Rawls explicitly says;

My aim is to work out a theory of justice that represents an alternative to utilitarian thought generally and so to all of these different versions of it. I believe that the contrast between the contract view and utilitarianism essentially the same in all these cases.<sup>9</sup>

In the light of this quotation, it is obvious that Rawls’ theory of justice is a challenge against classical utilitarianism’s view of justice. In doing so, Rawls aims to establish a theory of justice as an alternative to classical utilitarianism. Rawls begins his critique with the formulation of utilitarianism on the idea of social justice quoting from Henry Sidgwick, who is one of the most important philosophers of classical utilitarianism. Rawls explain this formulation like that;

The main idea is that society is rightly ordered, and therefore just, when its major institutions are arranged so as to achieve the greatest net balance of satisfaction summed over all individuals belonging to it.<sup>10</sup>

This formulation is important to understand Rawls’ critique on utilitarianism. According to Rawls, analyzing this formulation on justice, we encounter three main difficulties about justice: Firstly, this way of thinking of society leads to scarifying someone for the sake of the greatest net balance of satisfaction.<sup>11</sup> Secondly, the classical utilitarianism ignores the difference between individuals because individuals have different expectations in terms of their age and experience. This view ignores these differences among individuals for the sake of the greatest net balance of satisfaction and maximizing utility.<sup>12</sup>

Thirdly, the classical utilitarianism aims to attain good for the maximizing satisfaction of desire. According to Rawls, similar to all other teleological doctrines, utilitar-

8 Voice, *Rawls Explained*, p.2.

9 John Rawls, *A Theory of Justice*, London: Belknap Press, 1971, p.22.

10 Rawls, *A Theory of Justice*, p.22.

11 Rawls, *A Theory of Justice*, p.23.

12 Rawls, *A Theory of Justice*, p.23.

ianism gives priority good instead of right. It defines good independently from right. In this context, utilitarianism leads to ignoring rights for the sake of good because the most important thing for utilitarianism is to maximize the utility.<sup>13</sup>

## Two Principles of Justice

Rawls sees himself as a follower of social contract tradition. Social contract theory explains how people enter and establish any particular form of government. In the social contract theory, people make a contract to leave the state of nature in which there is no authority and rules to regulate society. The state of nature is a hypothetical assumption of social contract theory which justifies why people accept to live under the any particular form of government. Basically, Rawls theory of justice is a version of social contract theory. In the *A Theory of Justice*, Rawls says;

My aim is to present a conception of justice which generalizes and carries to a higher level of abstraction the familiar theory of the social contract as found, say, in Locke, Rousseau and Kant. In order to do this, we are not to think of the original contract as one to enter a particular form of government. Rather, the guiding idea is that the principles of justice for the basic structure of society are the object of the original agreement.<sup>14</sup>

In the light of this quotation, Rawls' theory of justice is a kind of social contract theory and his theory also base on a contract. However, there is a difference between the Rawls' theory of justice and social contract theory. The difference is that the object of agreement is the principles of justice in Rawls' theory of justice rather than making a contract to enter a particular form of government. According to Rawls, the role of principles of justice is to designate the rights and duties in the basic institutions and they describe proper distribution of the benefits and burdens of social cooperation<sup>15</sup>. In parallel with the hypothetical assumption of the other philosophers of social contract theory, the state of nature, Rawls constructs his theory of justice with a hypothetical assumption which is original position. The original position is initial choice situation in which the principles of justice are chosen by participants. Rawls offers the veil of ignorance order to choose the principles of justice and make an agreement under the fair circumstances. In the original position, participants who are free and equal persons choose the principles of justice behind the veil of ignorance. In this sense, participants do not know their class position, social status, fortune in the distribution of natural assets and abilities, intelligence and strength. They also do not know their conception of good<sup>16</sup>. In original position, two principles of justice emerge. First principle is that "each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others<sup>17</sup>." This principle is the equal liberty principle and it ensures the basic liberties of participants. These basic liberties are political liberty, freedom of speech and assembly, liberty of con-

13 Rawls, *A Theory of Justice*, p.25.

14 Rawls, *A Theory of Justice*, p.11.

15 Rawls, *A Theory of Justice*, p.4.

16 Rawls, *A Theory of Justice*, p.12.

17 Rawls, *A Theory of Justice*, p.60.

sciousness, freedom of thought and freedom of person along with the right to hold personal property<sup>18</sup>. The second principle of justice is that “ Social and economic inequalities are to be arranged so that they are both (a) to the great benefit of the least advantaged and (b) attached to offices and positions open to all under conditions of fair equality of opportunity.”<sup>19</sup> This principle is difference principle which minimizes inequalities with regard to distribution of income and wealth and makes fair equality of opportunity among persons.

According to Rawls, two principles of justice include primary goods which are social and natural goods. Social goods are rights, liberties, powers, opportunities, income and wealth. Natural goods are health and vigor, intelligence and imagination. Although natural goods are influenced by basic structure, they are not directly under its control. According to Rawls, these two principles are also a guarantee of primary goods in a well ordered society.<sup>20</sup> To sum up, applying two principles of justice to the basic structure in a well ordered society is the task of justice as fairness.

### Amartya Sen’s Critique of Rawls’ Theory of Justice

Sen strongly criticizes Rawls’ theory of justice, which belongs to social contract tradition, since Rawls’ theory starts with a wrong question on the idea of justice. Sen argues as follows: “Rawls takes the principal question to be: What is a just society? Indeed, in most theories of justice in contemporary political philosophy, that question is taken to be central”<sup>21</sup> According to Sen, this question leads to a “transcendental approach to justice, focusing, as it does, on identifying perfectly just societal arrangements.”<sup>22</sup> In this sense, it can be inferred that Sen believes that the social contract tradition reduces the idea of justice within “the boundaries of the institutional realm.” Thus, Sen suggests that this question should be changed. Changing the question provides us the chance of looking at the question of justice from a new different perspective. Amartya Sen proposes two different questions for the idea of justice compared to “transcendental institutionalism”. These questions are: “How to reduce manifold injustices.”<sup>23</sup>Or “How justice would be advanced?”, rather than others (for example, “what a perfectly just society would look like?”<sup>24</sup> These questions are quite important in understanding Sen’s idea of justice. They lead to two important points about the idea of justice. The first one is how we advance justice and remove or reduce injustice. This is the core idea of Sen’s view. He clearly refers to this issue in his work *The Idea of Justice*. He asserts the following: “What moves us, reasonably enough, is not the realization that the world falls short of being completely just – which few of us expect – but that there are clearly remediable injustices.”<sup>25</sup> Moreover, Sen introduces this argument by giving the examples from history. He argues as follows:

18 Rawls, *A Theory of Justice*, p.61.

19 Rawls, *A Theory of Justice*, p.83.

20 Rawls, *A Theory of Justice*, p.62.

21 Amartya Sen, “What Do We Want from A Theory of Justice”, *Journal of Philosophy*, 103/5 (2006), p.216.

22 Sen, “What Do We Want from A Theory of Justice”, p.216.

23 Sen, *The Idea of Justice*, p.100.

24 Sen, *The Idea of Justice*, p.100.

25 Sen, *The Idea of Justice*, p.vii.

This is evident enough in our day-to-day life, with inequities or subjugations from which we may suffer and which we have good reason to resent, but it also applies to more widespread diagnoses of injustice in the wider world in which we live. It is fair to assume that Parisians would not have stormed the Bastille, Gandhi would not have challenged the empire on which the sun used not to set, Martin Luther King would not have fought white supremacy in ‘the land of the free and the home of the brave’, without their sense of manifest injustices that could be overcome. They were not trying to achieve a perfectly just world (even if there were any agreement on what that would be like), but they did want to remove clear injustices to the extent they could.<sup>26</sup>

According to Sen, if we start from this point, we could reach a broader perspective on the idea of justice. Both questions depend on each other in Sen’s view. It is important to note that these questions, Sen believes, could be understood only through “diagnosis of injustice.” It also plays a key role to understand “realization-focused comparisons” which is offered by Sen as an alternative for the idea of justice. Therefore, I would like to analyze the relationship between “diagnosis of injustice” and “realization-focused comparisons” in the following sentences. As we mentioned before, Sen defines his position in political philosophy as being among the “realization-focused comparisons”. In order to understand “realization-focused comparisons” as an alternative approach for idea of justice, the notion of “diagnosis of injustice” should be examined as. It is the main feature of “realization-focused comparisons”. Philosophers, who are classified in this approach by Sen, give prime consideration to “diagnosis of injustice”. In this sense, Sen maintains the following:

They were all involved in comparisons of societies that already existed or could feasibly emerge, rather than confining their analyses to transcendental searches for a perfectly just society. Those focusing on realization-focused comparisons were often interested primarily in the removal of manifest injustice from the world that they saw.<sup>27</sup>

From above quote, it is obvious that “diagnosis of injustice” is the first task of the “realization-focused comparison” approach. Furthermore, its aim is not identifying perfectly just institutions for the idea of justice. Instead, “a realization-focused perspective also makes it easier to understand the importance of the prevention of manifest injustice in the world, rather than seeking the perfectly just institutions”. That is to say, since this approach mainly deals with the “diagnosis of injustice”, it also targets prevention of injustice. It is important to emphasize that prevention of injustice gives rise to advancement of justice, which is another main component of Sen’s idea of justice.

Another important aspect of Sen’s idea of justice is that it is not only based on western thought but also on eastern philosophy. He takes into account different views on justice, because the right perspective to study justice, Sen argues, should involve

<sup>26</sup> Sen, *The Idea of Justice*, p.vii.

<sup>27</sup> Sen, *The Idea of Justice*, p.7.

different views on the idea of justice. He chooses this way of philosophical attitude to able to discuss the idea of justice comprehensively. This attitude constitutes the main characteristics of *The Idea of Justice*. He explicitly indicates, “In this work too, I will take reasoned scrutiny from different perspectives to be an essential part of the demands of objectivity for ethical and political convictions.”<sup>28</sup> Although he takes into account different views on justice both from western and eastern thought, the “realization-focused comparison” is central in his idea of justice. In other words, “realization-focused comparison” is the common aspect of these different views on justice. After giving this explanation, I would like to explicate the eastern element in Sen’s idea of justice. Sen develops his view by referring to the idea of justice in Indian thought. He suggests the following:

In understanding the contrast between an arrangement-focused and a realization-focused view of justice, it is useful to invoke an old distinction from the Sanskrit literature on ethics and jurisprudence. Consider two different words – niti and nyaya – both of which stand for justice in classical Sanskrit. Among the principal uses of the term niti are organizational propriety and behavioral correctness. In contrast with niti, the term nyaya stands for a comprehensive concept of realized justice. In that line of vision, the roles of institutions, rules and organization, important as they are, have to be assessed in the broader and more inclusive perspective of nyaya, which is inescapably linked with the world that actually emerges, not just the institutions or rules we happen to have.<sup>29</sup>

In this quote, Sen introduces two words “niti and nyaya” from the Sanskrit language and Indian thought to explicate his idea of justice. The notion of niti basically considers the propriety of institutions, and nyaya focuses on actual life. In order to clarify these notions about justice, Sen introduces a new concept “matsyanyaya”, which refers to “justice in the world of fish.”<sup>30</sup> It basically means that big fish always eats small fish. According to Sen, this view was dispraised by Indian legal theorists and they also warned against this view to prevent it from taking place in the world. The notions of “niti” and “nyaya” are conceptualized not to allow the occurrence of “matsyanyaya” in the world. The main difference between niti and nyaya could be read in terms of the difference between “transcendental institutionalism” and “realization-focused comparison” approach. That is to say, the notion of “niti” mainly concerns the just institutions, and it takes this as the center of the justice as “transcendental institutionalism” does. Nyaya, on the other hand, focuses on realization of justice like “realization-focused comparison”. Sen gives two examples to instantiate niti and nyaya. The first example is about the statement of Ferdinand I, Holy Roman Emperor. The statement reads, “Fiat justitia, et pereat mundus”, which can be translated as “Let justice be done, though the world perish.”<sup>31</sup> According to Sen, this statement focuses on the just and right rule or principle. For this reason, it is an example of niti that

28 Sen, *The Idea of Justice*, p.45.

29 Sen, *The Idea of Justice*, p.20.

30 Sen, *The Idea of Justice*, p.20.

31 Sen, *The Idea of Justice*, p.21.



concentrates on what kind of institutions and rules are just. The second example is abolition of slavery. This example is significant to understand Sen's position on the idea of justice. He asserts the following:

When people agitated for the abolition of slavery in the eighteenth and nineteenth centuries, they were not laboring under the illusion that the abolition of slavery would make the world perfectly just. It was their claim, rather, that a society with slavery was totally unjust (among the authors mentioned earlier, Adam Smith, Condorcet and Mary Wollstonecraft were quite involved in presenting this perspective). It was the diagnosis of an intolerable injustice in slavery that made abolition an overwhelming priority, and this did not require the search for a consensus on what a perfectly just society would look like.<sup>32</sup>

From above quote, this example is a kind of *nyaya* perspective on the idea of justice, because *nyaya* pay attentions to the actual life of people and to the realization of justice. Therefore, abolition of slavery in this context could be regarded as the removal of injustice and realization of justice in terms of *nyaya*. However, it is important to emphasize that Sen does not ignore the significant role of institutions for the idea of justice. He suggests:

Any theory of justice has to give an important place to the role of institutions, so that the choice of institutions cannot but be a central element in any plausible account of justice. However, for reasons already discussed, we have to seek institutions that promote justice, rather than treating the institutions as themselves manifestations of justice, which would reflect a kind of institutionally fundamentalist view. Even though the arrangement-centered perspective of *niti* is often interpreted in ways that make the presence of appropriate institutions themselves adequate to satisfy the demands of justice, the broader perspective of *nyaya* would indicate the necessity of examining what social realizations are actually generated through that institutional base. Of course, the institutions themselves can sensibly count as part of the realizations that come through them, but they can hardly be the entirety of what we need to concentrate on, since people's lives are also involved.<sup>33</sup>

From this quote, it can be inferred that the roles of institutions and people's actual lives should be considered together in any theory of justice. The demand of justice is required not only for establishing just institutions and society but also for looking at how people's lives go on and what their behavior patterns are.

After examining Amartya Sen's interpretation of classical Indian thought about justice, I will explicate Sen's idea of justice by comparing two approaches to justice. As we mentioned before, there are some differences between these approaches, but I will try to analyze this comparison in some detail. Sen's idea of justice basically depends on Rawls' theory of justice. He tries to suggest a new approach on the idea of justice

<sup>32</sup> Sen, *The Idea of Justice*, p.21.

<sup>33</sup> Sen, *The Idea of Justice*, p.82.

instead of Rawls' theory. In order to give account of Sen's idea of justice, two different approaches to justice will be examined in this section. As we mentioned above, according to Sen, the idea of justice is mainly dominated by "transcendental institutionalism" within contemporary political philosophy. This approach refers to social contract theory. According to Sen, it is problematic and insufficient to conceive idea of justice. Therefore, he offers "realization-focused comparison" as an alternative approach.

The first approach to the idea of justice, "transcendental institutionalism", centers upon what is just and unjust for assessing the idea of justice. In other words, it does not take into account the advancement of justice and removal of injustice. Although we do not have just institutions, we could reduce basic injustices, thereby making it easier to advance justice. Sen's approach, "realization-focused comparison", has this perspective. Sen explicitly indicates, "In a comparative perspective, the introduction of social policies that abolish slavery, or eliminate widespread hunger, or remove rampant illiteracy, can be shown to yield an advancement of justice."<sup>34</sup>

Sen also introduces the concepts "closed and open impartiality" by which he describes the nature of these two different approaches. I would like to focus on these concepts. This will enable us to clarify the nature of these different approaches. It also gives us the limits and suggestion of these approaches to the idea of justice. According to Sen, there are two types of impartiality in the realm of political philosophy about the idea of justice. The first type is *closed impartiality*. This refers to an impartiality of a focal group indicating the idea that "with closed impartiality, the procedure of making impartial judgments invokes only the members of the focal group itself."<sup>35</sup> Sen identifies Rawls' theory of justice as a type of closed impartiality. Since Rawls' theory of justice is an original contract between citizens of a given state, it is limited by this focal group.<sup>36</sup> It is important to emphasize that Sen describes any contract theory as limited to certain citizens subject to a sovereign. That is to say, contract is realized only among citizens of a given state. Although Rawlsian veil of ignorance conceals people's exact identities and allows the removal of bias such as ethnic and gender discrimination, it cannot eliminate the fact of being a member of group. In other words, people who come together under the veil of ignorance know the fact that they are citizens of a given state. For this reason, Sen believes, the veil of ignorance makes Rawlsian theory of justice a closed impartiality.<sup>37</sup>

Sen calls the second type of impartiality *open impartiality*. Open impartiality is not limited to the realm of the focal group. That is to say, "the procedure of making impartial judgments can (and in some cases, must) invoke judgments inter alia from outside the focal group."<sup>38</sup> Open impartiality is accessible to people who are not contractors or citizens. Sen introduces the impartial spectator to explain open impartial-

34 Sen, "What Do We Want from A Theory of Justice", p.217.

35 Amartya Sen, "Open and Closed Impartiality", *Journal of Philosophy*, 99/9 (2002), p.445.

36 Sen, "Open and Closed Impartiality", p.445.

37 Sen, "Open and Closed Impartiality", p.446.

38 Sen, "Open and Closed Impartiality", p.446.

ity. The impartial spectator could be a member of a given state or someone from outside. This makes impartial spectator an example of open impartiality. In this sense, Sen asserts the following:

Smith's strategy in invoking impartial spectators makes room for taking note of perspectives that are not overwhelmed by the biases of one's own groups. The partialities of group-based thinking are to be identified, with an attempt to override them.<sup>39</sup>

The difference between closed and open impartialities refers to the main difference between "transcendental institutionalism" and "realization-focused comparison" approaches. The first approach is described as closed impartiality, and the latter is described as open impartiality. Sen argues for an open impartiality that considers different views and allows being able to make comparison among alternatives for the idea of justice. Sen characterizes the first approach as "transcendence" and "closed impartiality", while characterizing the second one as "comparative" and "open impartiality".

### **Amartya Sen's Impartial Spectator for the Question of Injustice**

Amartya Sen uses the notion of impartial spectator in a different way than Adam Smith. He does not consider Smith's impartial spectator as the criterion of moral judgment. Sen is mainly concerned with the impartial spectator as a criterion for removing injustice and advancing justice. Thus, Sen believes that the impartial spectator should be considered with regard to question of injustice.

Sen divides enlightenment political philosophy into two with regard to the question of justice. The first category is "transcendental institutionalism". This view on justice emerges from the social contract tradition which is represented by Thomas Hobbes, John Locke, Rousseau, Kant and John Rawls. Sen thinks that the contractarian approach aims to establish perfectly just institutions and a just society. In an attempt to answer the question "what a perfectly just society would look like", the social contract tradition focuses on the principles which create perfectly just institutions and a just society. According to Sen, this kind of approach "concentrates primarily on getting the institutions right and it is not directly focused on the actual societies that would ultimately emerge."<sup>40</sup> For this reason, Sen believes that the question should be changed as "how do we remove injustice and advance justice". In this sense, Sen introduces and argues for the second tradition which he calls "realization-focused comparison", and which he sees as represented by Adam Smith, Marquis de Condorcet, Jeremy Bentham, Mary Wollstonecraft, Karl Marx and John Stuart Mill.

Unlike "transcendental institutionalism", this approach deals with the question of injustice by mainly focusing on how to remove or reduce injustice and advance justice. It must be noted that "transcendental institutionalism" does not consider removal of the injustice, and it mainly targets establishing just institutions, which is a fun-

<sup>39</sup> Sen, "Open and Closed Impartiality", p.446.

<sup>40</sup> Sen, *The Idea of Justice*, p.7.

damental requisite to establish a just society. From this classification and different characteristics of the two approaches on question of justice, it can be inferred that Sen employs the impartial spectator as a standard for removing injustice and advancing justice.

The way how the impartial spectator would be a standard and solution to remove injustice is indicated by some qualities of the impartial spectator such as *disinterestedness*, *being unbiased* and *well-informed*. These qualities are what make the impartial spectator a standard for the question of injustice. The reference to the impartial spectator particularly appears as an objective and normative solution for the question. Therefore, this approach takes into account the comparisons among solutions for removing or reducing injustice.

Sen argues that there are four main reasons to offer this alternative approach to transcendental institutionalism. The first reason is that it deals with the comparative assessment on social justice to solve the problem of injustice and advance justice. Therefore, it does not seek or find merely transcendental solutions for the question of justice. The second reason is that it focuses on social realizations with regard to removing injustice and advancing justice. Consequently, it does not concentrate only on the demands of institutions and rules. The third reason is that this approach allows us to take into account the incomplete and urgent partial problems of social justice. It does not focus only on seeking permanent and stable solutions for the complete theory of justice. The fourth reason is that it does not ignore the problems of people who are not contractors. This approach also considers different societies which are governed and shaped by different types of political doctrines or systems. In this regard, its aim is to avoid being a parochial perspective on the idea of justice.<sup>41</sup>

In order to clarify the notion of impartial spectator in Sen's view on the question of injustice, I would like refer to an example that Sen gives in his Idea of Justice from Adam Smith about the influence of customs on societies:

...The murder of new-born infants, was a practice allowed of in almost all the states of Greece, even among the polite and civilized Athenians; and whenever the circumstances of the parent rendered it inconvenient to bring up the child, to abandon it to hunger, or to wild beasts, was regarded without blame or censure. This practice had probably begun in times of the most savage barbarity. The imaginations of men had been first made familiar with it in that earliest period of society, and the uniform continuance of the custom had hindered them afterwards from perceiving its enormity. We find, at this day, that this practice prevails among all savage nations; and in that rudest and lowest state of society it is undoubtedly more pardonable than in any other.<sup>42</sup>

The importance of this example is associated with the reactions of philosophers such as Plato and Aristotle. In this context, Smith shows how customs influence a society.

41 Sen, *The Idea of Justice*, p.90.

42 Adam Smith, *The Theory of Moral Sentiments*, Edited by D. D. Raphael, Indiana Polis: Liberty Fund, 1984, p.210.

Smith continues by showing how philosophers continued to live such a custom. He argues:

Aristotle talks of it as of what the magistrate ought upon many occasions to encourage. The humane Plato is of the same opinion, and, with all that love of mankind which seems to animate all his writings, nowhere marks this practice with disapprobation.<sup>43</sup>

Philosophers too might be influenced, and remain under the influence of customs. Smith believes that customs which cause injustices could only be removed by invoking the impartial spectator. Being both well-informed and disinterested, the impartial spectator could bring solution. Based on this consideration, Sen suggests that comparative assessments are required in such cases, and this refers to the impartial spectator who does not have any personal interests and biases. Besides, this case reminds us how parochialism is a threat to society and people. Therefore, knowing and considering parochialism of any society is quite important to realize where problems arise and how we assess them. In this regard, Sen argues as follows:

It is this limitation of reliance on parochial reasoning, linked with national traditions and regional understandings, that Adam Smith wanted to resist by using the device of the impartial spectator, in the form of the thought experiment of asking what a particular practice or procedure would look like to a disinterested person—from far or near.<sup>44</sup>

Impartial spectator as both disinterested and well-informed entity helps people to move from parochialism to universality. The well-informed, impartial spectator takes into account these parochial views and considers different viewpoints. Sen considers impartiality as important different solutions, and this is not just for the claim of objectivity. Sen says that “Objectivity demands serious scrutiny and taking note of different viewpoints from elsewhere, reflecting the influence of other empirical experiences.”<sup>45</sup>

In order to understand Sen’s interpretation of objectivity of the impartial spectator, we should consider how Smith depicts the impartial spectator: objectivity of the impartial spectator is understood as in the example of placing “ourselves in the situation of another man, and view it, as it were, with his eyes and from his station.”<sup>46</sup>

According to Sen, Rawls has a transcendental approach which takes the contractarian view as central and focuses on negotiation among the members of any given society rather than those outside. In other words, this approach concentrates on the fact that a “person’s voice counts because he or she is directly involved in the social contract, which will “regulate the institutions” of the society of which he is a mem-

43 Smith, *The Theory of Moral Sentiment*, p.210.

44 Amartya Sen. “Adam Smith and the Contemporary World”, *Erasmus Journal for Philosophy and Economics*, 3/1(2010), p.63.

45 Sen, *The Idea of Justice*, p.130.

46 Smith, *The Theory of Moral Sentiment*, p.109-110.

ber.”<sup>47</sup> It pays attention merely to the negotiation of certain people who live in a given society. Therefore, the impartiality of this approach is limited. Sen describes this kind of impartiality as “closed impartiality” and holds that this approach refers to the “negotiable justification of the confinement to local points of view.”<sup>48</sup> Sen argues that Adam Smith’s impartial spectator considers, assesses all possibilities and offers solutions. Sen argues:

Smith’s device of the impartial spectator leans towards an “open impartiality” in contrast with what can be called the “closed impartiality” of the social contract tradition, with its confinement to the views of the parties to the social contract and therefore to fellow citizens of a sovereign state.<sup>49</sup>

In the light of above quote, Sen argues that we need a different approach beyond this limitation for the sake of impartiality:

There is a different approach to impartiality which brings in different voices, possibly even from “a distance” (to use Adam Smith’s articulate phrase), precisely because these voices illuminate public decisions and help to make them impartial. In the terminology of conflict resolution, this is more like arbitration, rather than negotiation; the arbitrators need not themselves be parties to the dispute. I have argued elsewhere that the interpretation of fairness and impartiality through an understanding of “fair arbitration” is a serious rival to the route of “fair negotiation,” which is the exclusive direction in which the contractarian feature of Rawls’ transcendental approach- “Justice as fairness” - proceeds.<sup>50</sup>

As pointed out in the quotation, Sen thinks that the transcendental approach is limited to contractors. He identifies this approach as being limited and based on a negotiation of certain individuals who participate in the social contract. Instead, he proposes arbitration rather than negotiation. The difference is highly important to understand why Sen introduces the notion of impartial spectator as a standard to remove injustice and advance justice. Sen’s proposal of arbitration refers to the impartial spectator. In this regard, Sen argues:

The approach of fair arbitration is well exemplified by Smith’s invoking of the perspectives of “impartial spectators.” The impartial spectators are imagined observers who need not be members of the society, and their impartiality does not come, as in the Rawlsian system, exclusively- or even primarily- through the thought experiment of a veil of ignorance about the personal circumstances of individual members of a given society. Rather, the thought experiment by members of society, in the Smithian system of fair arbitration, invokes the judgments of disinterested observers who are not themselves parties to the societal decisions that are to be taken.<sup>51</sup>

47 Sen, “What Do We Want from A Theory of Justice”, p.229.

48 Sen, “What Do We Want from A Theory of Justice”, p.229.

49 Sen. “Adam Smith and The Contemporary World”, p.60.

50 Sen, “What Do We Want from A Theory of Justice”, p.229-230.

51 Sen, “What Do We Want from A Theory of Justice”, p.230.

It is important to emphasize that Sen's suggestion of the impartial spectator is a thought experiment like Rawls' "veil of ignorance". The quote clearly shows that impartial spectator as an imaginary observer is an arbitrator. To that extent, the impartial spectator does not have to be a member of a certain society which is constituted through negotiation among citizens who have mutual interests. Therefore, the impartial spectator appears a "disinterested observer" who could be near or far from us.

The reason behind Sen's reference to the impartial spectator in this respect is that He considers Rawls' theory of justice or the contractarian approach to justice insufficient to take the question of justice to the global level. According to Sen, we should put aside this approach for global justice because of three main reasons. The first reason is that "the interests of other people may be affected (for example, by national policies on "global warming," or for that matter what is called the "war against terror")."<sup>52</sup> The second reason is that the local parochialism shared by all (or almost all) persons within a given society may call for a distant challenge in the interest of objectivity."<sup>53</sup> Finally, the third reason is that "additional knowledge about what is feasible can be acquired from the experiences of other countries."<sup>54</sup> These reasons necessitate a new approach for the problems of global justice. Therefore, Sen sees Smithean impartial spectator as a new alternative for the problems of global justice.

## Conclusion

The main feature of Amartya Sen's idea of justice is that he takes into account not only the western thought on the idea of justice but also eastern thought. As mentioned in this study, Sen borrows two notions of justice, *niti* and *nyaya*, from classical Indian political thought. The importance of this kind of approach to the idea of justice is that it enables the person to consider different thoughts and experiences of others about the idea of justice. These two concepts refer to the two different kinds of view on justice. Sen explains that *niti*, relates to organizational propriety as well as behavioral correctness, whereas the latter, *nyaya*, is concerned with what emerges and how, and in particular the lives that people are actually able to lead<sup>55</sup> *Niti* basically aims to establish just society by means of just institutions like transcendental institutionalism. On the other hand, *nyaya* aims the social realization of justice like realization-focused comparison. *Nyaya* is basically aims to reduce or remove injustice. Sen explains this approach with the notion of "*matsyanyaya*, 'justice in the world of fish, where a big fish can freely devour a small fish.'<sup>56</sup> *Nyaya* is against the justice of *matsyanyaya*. In this sense, Sen claims that "The central recognition here is that the realization of justice in the sense of *nyaya* is not just a matter of judging institutions and rules, but of judging the societies themselves."<sup>57</sup> To that extend, *Nyaya* is not only related to the institutions but also societies. It makes possible to establish

52 Sen, "What Do We Want from A Theory of Justice", p.231.

53 Sen, "What Do We Want from A Theory of Justice", p.231.

54 Sen, "What Do We Want from A Theory of Justice", p.231.

55 Sen, *The Idea of Justice*, p.22.

56 Sen, *The Idea of Justice*, p.20.

57 Sen, *The Idea of Justice*, p.22.

a relationship between institutions and society. Social realization of justice and removing of injustice depends on the take into account both institutions and society critically. Furthermore, another important contribution of Sen to the idea of justice is related to his making a distinction between the *closed* and *open* impartiality. Sen considers Rawls' theory of justice in the context of *closed impartiality*, because it is limited to the realm of a focal group that refers to being a citizen of a given state only. Instead, Sen proposes *open impartiality*. The significance of open impartiality is that it gives us Sen's main contribution to the idea of justice. This is the notion of *impartial spectator*. To put it in a different way, impartial spectator as an entity in thought experiment does not have to be a member of given state. Sen introduces the notion of impartial spectator mainly not to be limited to the realm of parochialism, namely refers to the remaining in any specific group in terms of culture and ideology. Being disinterested and looking with the eyes of others makes the impartial spectator an alternative standard for the idea of justice.

The problem with Sen's idea of justice is that it is not a systematic account of the idea of justice. Let me explain this point referring to Rawls' theory of justice and its relation to the political liberalism. Rawls' position is very clear on the idea of justice and he argues within the boundaries of the political liberalism. His model on justice is related to the liberalism, and it gives us the chance to comprehend and criticize his idea of justice from an obvious perspective. To put it more explicitly, Rawls, like other liberal philosophers, gives priority to basic liberties. It is well-known that liberalism mainly advocates basic liberties of individuals and citizens as a primary concern. Therefore, we can criticize Rawls' theory of justice in a systematic way take our model as political liberalism in the context of political philosophy. In contrast, we do not find Sen's position on justice as clear as that of Rawls. He considers himself in a tradition which hosts dissimilar political philosophies like those of Marx and Smith. Thus, Rawls' theory of justice has a strong background and a systematic philosophical content in terms of political philosophy.<sup>58</sup>

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## Amartya Sen'in Adalet Düşüncesi ve Adaletsizlik Problemi için Tarafsız Gözlemci

UMUT DAĞ

**Öz:** Bu çalışmada Amartya Sen'in adalet düşüncesi ve adaletsizlik problemi için önermiş olduğu tarafsız gözlemci kavramını analiz edilmiştir. Amartya Sen'in adalet düşüncesini tam manasıyla açıklayabilmek için onun John Rawls'un adalet teorisi üzerine yaptığı eleştiri dikkate alınmalıdır. Sen'in adalet düşüncesi Rawls'un adalet teorisinin eleştirisi ve onun yerine sunulmuş yeni bir yaklaşım olarak görülebilir. Bu sebepten bu makalede Amartya Sen'in John Rawls eleştirisi açıklayıcı kılmaya çalıştım. Bunun dışında tarafsız gözlemci kavramı Amartya Sen'in adalet teorisini anlamak için önemli bir kavramdır. Adam Smith'in *Theory of Moral Sentiment* adlı eserinde ahlaki davranışlarımızın standartını belirleyen diye öne sürdüğü tarafsız gözlemci kavramını Amartya Sen Adam Smith'ten devralarak onu farklı bir bağlamda politik alandaki adalet problemine uyarlamaya çalışmıştır. Amartya Sen çalışmalarında tarafsız gözlemci fikrini adalet sorununa bir çözüm olarak öne sürer.

**Anahtar kelimeler:** Adalet, Tarafsız Gözlemci, Aşkînsal kurumsalcılık, Toplum sözleşmesi, Hakkaniyet.