

Trinity Chapel
17 January 2010

JUSTICE

Amartya Sen

It is hard to resist the claim that the pursuit of justice is a critically important virtue. And yet there are many different ways of thinking about justice - and they compete with each other for our attention. There is no escape from the need for critical reasoning in deciding on how to interpret this often-invoked idea.

In fact, there may well be something of a tension between the theories of justice in political philosophy and the use made of the idea in public debates and practical reasoning. Formal theories of justice since the days of Thomas Hobbes in the seventeenth century, all the way to the contemporary theories of justice, have been dominated by the supposition that imperatives of justice must be seen in terms of the demands of an imagined "social contract" between the citizens of a state. All the citizens would have reason to endorse such a contract, setting up perfectly just institutions for that particular society, afforded by perfectly compliant behaviour of all the citizens.

It is, however, not at all obvious that this is the best way to proceed. Even if we manage to agree that some particular set of institutions would be uniquely just, that need not tell us much about how to compare different states of affairs that all fall short of perfection - as all feasible states would tend to do. The imagined very best need not tell us much about how to rank two necessarily

imperfect states.

Furthermore, we may very likely fail to agree on what institutional combination would be perfectly just. The positive thing to note, however, is that the absence of an agreement on perfection need not preclude the emergence of a reasoned consensus that many bad practices we now have are altogether unjust and deserve to be removed. When people agitated for the abolition of slavery in the eighteenth and nineteenth centuries, they were not labouring 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, and something needs to be done to eliminate it even if we do not agree on the nature of an ideally just society, or on the composition of perfectly just institutions.

Similarly today, we can reasonably agree that the grim fact that hundreds of millions of children do not receive elementary education, or minimally adequate nutrition, or any serious health care, or even any caring attention reflects an injustice that should be eliminated as quickly as we can. We can also agree on the injustice involved in the continuation of famines and pandemics and subjugation of women - and in millions of deaths from illnesses for which effective medicine can be very cheaply produced but is not, given the counterproductive system of patents and royalties. To take another example, the prevalence of torture, often practised by the pillars of the global establishment, can also be seen as injustice on which reasoned agreement is possible and practical elimination feasible. All this suggests the need for a very different way of thinking about justice,

concentrating not on the imagination of perfect institutions, but on reasoning that helps to identify manifest injustices that can be - totally or largely - removed. To get there we need not begin by seeking an agreement on an all-encompassing social contract, with an exact balance of the relative weights to be attached to the competing concerns, for example between the diverse pulls of the priority of liberties and the importance of economic equity, on which there can continue to be reasonable disagreement.

In understanding the contrast between the two approaches, it is important to consider a very old distinction that has been much used in ancient Indian jurisprudence. Take 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 perfection and behavioural correctness. In contrast with niti, the term nyaya stands for concepts of realized justice - based on how the lives of people actually go, including their well-being and freedoms. To consider a particular application of nyaya, early Indian legal theorists talked disparagingly of what they called matsyanyaya, "justice in the world of fish," where a big fish can freely devour a helpless small fish. We are told that avoiding matsyanyaya must be an essential part of the pursuit of justice, even though the world would not become perfectly just merely by preventing the despotism of the big fish. Nyaya can serve as the basis of a people-centred comparative approach to justice.

In contrast, consider the dictum of Ferdinand I, the Holy Roman emperor, who famously claimed in the sixteenth century: "Fiat

justitia, et pereat mundus," which can be translated as: "Let justice be done, though the world perish." This severe maxim could figure as a niti - a very austere niti - but it would be hard to accommodate a total catastrophe as an example of a perfectly just world, when we understand justice in the broader perspective of nyaya. A viable alternative approach to justice can concentrate on identifying and eliminating manifest injustices in the way people's lives go (involving, for example, serious deprivation of freedoms and capabilities of people).

There is, in fact, a further reason - further to what I have already spoken about - for going beyond the contractarian understanding of justice. The social contract approach seeks the enforcement of justice by a sovereign state, and it does not allow us to invoke the idea of justice when the people involved do not have a sovereign state. This implies that reflections on "global justice" in the contemporary world, without a global state, cannot but be illusory - indeed a "chimera" as a leading contemporary philosopher has forcefully articulated. Not surprisingly the subject of global justice has received very little serious investigation in formal theories of justice, dominated as they are by the social contract tradition and the niti of setting up perfect institutions.

This is in deep tension with the fact that our immediate sense of injustice is often sharply aroused by reflections on what is happening across our own borders. We live in a thoroughly interdependent world - linked with economic, social, political and cultural relations and connected by our interest in each other. As

Martin Luther King said in a letter from Birmingham Jail in April 1963: "Injustice anywhere is a threat to justice everywhere." That King was right is hard to dispute in the world today, beleaguered as it is by cross-border epidemics (such as AIDS), or global terrorism, or global warming, or global news of local catastrophes (such as the current disaster in Haiti). To assume that justice does not demand anything from us across our national borders can be a huge mistake in reasoning on justice.

While I do not have any particular claim to religiosity, I would argue that the question that Jesus asks in the Good Samaritan story in The Gospel of Luke - "who is our neighbour?" - is central to clear thinking about justice. Indeed, our global "neighbourhood," constructed by our relations with other people, is of pervasive relevance to the idea of justice.

In the very early days of globalization, nearly a quarter of a millennium ago in the eighteenth century, David Hume argued:
....again suppose that several distinct societies maintain a kind of intercourse for mutual convenience and advantage, the boundaries of justice still grow larger, in proportion to the largeness of men's views, and the force of their mutual connexions.

We are now linked with each other across the globe through trade, commerce, literature, language, music, arts, entertainment, religion, medicine, health care, politics, news reports, media communication, and other ties, and the regional view of justice through separately concluded national social contracts is peculiarly inadequate. It

is on "the largeness of men's views," as David Hume put it, that an understanding of justice today has to draw.