

THE ANALYSIS OF JUSTICE THROUGH AMARTYA SEN'S *IDEA OF JUSTICE*

Nwagbara, Rufus Godswill

Department of Philosophy, Babcock University, Ogun State
nwagbarag@babcock.edu.ng

&

Orji, Chidi Paul, Ph.D

Department of Philosophy
University of Agriculture and Environmental Sciences, Imo State
hipaulco@gmail.com, paul.orji@uaes.edu.ng

DOI: 10.13140/RG.2.2.21082.35528

Abstract

Amartya Sen's Idea of Justice and his proposal for the question of injustice. To understand Sen's idea of justice, his critique of 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, Sen's Idea of Justice is through his critique of Rawls' Theory of Justice. Apart from that, Niti and Nyaya human reasoning can differentiate between justice and injustice through the realization process in analysing in understanding 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 Capability Approach as a solution to the question of equitable justice in his works.

Keywords: Justice, *Niti* and *Nyaya*, Amartya Sen,

Introduction

Amartya Sen was born on November 3, 1933, in India. He won the 1998 Nobel Prize in Economic Sciences for his contributions to welfare economics and social choice theory and for his interest in the problems of society's poorest members. He uses evaluative and comparative methods of justice. In his book *The Idea of Justice*, which he dedicated to John Rawls, Sen attempts to construct a general theory of comparative justice, as well as adding to his previous work on capabilities. To achieve this, Sen first distinguishes two currents of thought, which are related to the idea of social justice. According to Sen, although the issue of social justice has been discussed for ages, the social and economic transformations that emerged with the European Enlightenment in the 18th and 19th centuries caused the political climate to change in Europe and America, and the concept was strongly supported by the changing political climate. Thus, the line of thought on justice among the main philosophers has been divided into two different directions and two different approaches.

Different Approaches to Justice

The first of these approaches is the justice approach, which was initiated by the works of Thomas Hobbes in the 17th century and followed by important thinkers with different styles such as Rousseau, Locke, Kant, and Rawls. This approach is the 'social contract' theory, which focuses on social justice mechanisms and is dominant in today's political philosophy. Sen also calls this approach the transcendental institutionalism approach. Another approach to justice is the influence of different institutions advocated by Smith, Condorcet, Wollstonecraft, Bentham, Mill, and Marx. It is the comparative theory of justice, which argues that justice can be possible by comparing different lifestyles under it (Sen, 2009:6-7). According to Sen, in the

transcendental institutionalism approach, rather than comparing justice and injustice in actual societies, it is aimed to define the nature of the just and it is tried to diagnose what perfect justice is without focusing directly on actual societies. Sen evaluates this feature of this approach, which focuses on the fair organization of institutions rather than people and actual societies, as a contractual mode of thinking and states that a hypothetical social contract situation is assumed in this thinking mode. The obvious relevance of this social contract is to offer an ideal alternative to chaos/confusion. Emphasizing that the transcendental institutionalism approach is arrangement-focused, Sen states that “the results of this approach lead to the development of theories of justice that focus on the transcendent identity of ideal institutions” (Sen, 2009:6).

Pointing out that the other approach to justice, the comparative justice approach, is realization-focused, Sen points out that comparative theorists try to correct it by clearly showing the injustice in the world and that social realization (actual institutions, behaviors, and other effects on human life) states that they focus on the results). “These theorists, instead of limiting their studies to the transcendent investigation of a perfectly just society, have conducted studies involving the comparison of existing or probable societies, and have directed all their attention to the abolition of injustice in the world” (Sen, 2009:7). In making a crucial difference between the arrangement-focused approach to justice and the realization-focused approach to justice, the realization-oriented approach, that is, the comparative justice approach focuses its attention on the actual behavior of people rather than the obedience of ideal behavior. While the regulation-oriented approach (transcendental institutionalism approach) asks 'How is a competent just institution', the realization-oriented approach asks the question 'How can justice be developed'. The realization-oriented approach focuses not only on institutions and rules but also on the actual realization of justice in societies, that is, it focuses attention on comparison/comparison instead of following a transcendent route (Sen, 2009:7-9). Sen argues that the dominant view regarding justice in today's political philosophy is the view of transcendental institutionalism and shows John Rawls as the representative of this view in our time. Sen states that it is possible to see the principles of justice in Rawls's *Theory of Justice*, in which the norms of right behavior in the moral and political context are illuminating, and our relationship with perfectly just institutions is fully defined/determined.

Regarding justice, Sen states that he sees two problems in the transcendental institutionalism approach, which includes Rawls. First, even under strict conditions of open-minded scrutiny and impartiality (for example, in the original position Rawls described) there can be an unreasonable agreement on the nature of a just society. According to Sen, this is an agreed-upon transcendent solution and it is a question of feasibility of the conclusion reached. Another of these problems involves the actual selection demands for a comparative framework of justice in the application of practical reason and the selection of the improbably improbable perfect situation from among possible alternatives. For Sen, this is “the redundancy problem of research in terms of a transcendent solution” (Sen, 2009:9). In Rawls' theory of justice, a hypothetical state of equality (the original position) is assumed to exist at the outset, and it is assumed that people who do not know themselves (under the veil of ignorance) will unanimously choose one thing in choosing the two principles of justice. However, Rawls fails to show why different alternative views on justice were not chosen. Here, Sen, in his approach to justice, tries to show that Rawls' description of this principle of justice is a mistake. According to Sen, other alternative approaches can easily dismiss Rawls's argument, which he formulated to draw attention to objectivity because it is not a useful and credible argument. For this reason, Sen states that the fulcrum of Rawls' theory of justice is blocked. Sen's interest is focused on how to reduce injustice even though we have different perspectives on an ideal system with a rational consensus. In this context, Sen sees “the diversity of systems and lifestyles not as an error or mistake, but as things

that signify human freedom” (Sen, 2009:12).

Sen argues that it is impossible to reach a perfect consensus on what a just world is. Justice can have multiple competing causes, all claiming to be impartial. Because Sen (2009:16) argues that “there is more than one value and criterion system to think about justice”. Sen (2009:54), states that the concept of truth is the basic concept of Rawls' theory of justice, "The principles of justice in Rawls' formulation determine the basic social institutions that regulate society." The need for accuracy arises when negotiating within an imaginary original situation to determine the principles of justice in impartiality. “Justice as truth has been central to political thought from the very beginning as a right” (Sen, 2009:55). The structural purpose of righteousness practice includes identifying appropriate principles that determine the unanimous selection of just institutions needed for the basic structure of a society. In Rawls, accuracy and impartiality are combined for the selection of appropriate principles of justice. Sen compares Rawls to Kant at this point.

Sen writes that, “Those who defend a universal law, as Kant did, accept that the characteristics such as not being emotional and being objective are shared by most people” (Sen, 2009:57). At this point, Sen talks about the multiplicity of competing objective principles and tries to explain this with the example of three children with a flute (Sen, 2009:16): We have a flute, and we have three children named Anne, Bob, and Carla. We have to give this flute to one of these three children. Anne says she deserves this flute only because she knows how to play the flute; Bob wants that flute given to him because he has no toys; Carla claims to have produced the flute herself. Sen emphasizes that each child in the example above has different reasons for owning the flute, and in this case, the decision about whom to give the flute to will be very difficult.

According to Sen, different theorists such as utilitarian, economic egalitarians, and liberals will think differently about who should be given the flute. For example, economic egalitarians will support Bob because he is the poorest; liberals will want the flute to be given to Carla since Carla is the one who produced the flute; utilitarians will support giving the flute to Mother since only Anne knows how to play the flute and in this case, she will get the greatest pleasure while playing the flute. According to Sen, for Rawls and his followers, only one of these children will be right and the decision will be made accordingly. The transcendental institutionalism approach, in which Rawls is also included, attributes justice as a necessity and universality that can be applied at all times and everywhere. Sen, who argues that this is not possible, emphasizes that in Rawls' model of justice, there is only one type of just society, which is defined by reference to principles. That is, plausible, reasonable answers to the pluralism existing in the modern world cannot be seen within this ideal form of Rawls and all other alternatives fail.

However, according to Sen, in the example of three children, giving the flute to one of the children causes us to contradict at least one principle of justice every time: If the flute is not given to Anne, it will lead to human performance; to the abolition of poverty if the flute is not given to Bob; If the flute is not given to Carla, it would be inconsistent with one's right to enjoy what is the result of one's effort. In the example above, Sen points out, that we can easily see that there are perfectly good reasons to give the flute to each of the children. In other words, according to Sen, if we are to reach a decision, we can only reach three different solutions for three different individuals. Therefore, Sen emphasizes that it is very difficult to reach a consensus on the ultimate principles of justice, and therefore argues that possible solutions are also invalid. The focus should be on choosing among possible alternatives, rather than discussing perfect solutions that are potentially unusable. Sen (2009:16) tries to explain this choice with the following example: “If we try to choose between Picasso and Dali, we should not do it by referring to the

diagnosis that Mona Lisa is the most ideal painting in the world.”

Sen stated that, in the example of 'three children with a flute', each of these three children's justified arguments shows non-arbitrary reasons and different types of impartiality. Sen argues that the peaceful settlement of such conflict can only come from a social negotiation and not from any social institution. He emphasizes that this is possible by excluding criteria that do not originate from common sense to measure justice (Sen, 2009:14-15). Sen points out that, the example of the flute reflects different fundamental ideas, which are considered separately and defended impartially, about the nature of a just society. Therefore, it does not seem possible to determine the institutions needed for the basic structure of society and to establish the principles of justice altogether. For this reason, Sen states that “it is very difficult to use the whole procedure/procedure of justice as the correctness developed by Rawls in his theory” (Sen, 2009:57). Rawls, in his book *Theory of Justice*, argues that people who come together in the initial situation will not choose other alternative ideas about justice and that the establishment of principles of justice will emerge singly. Sen considers this approach of Rawls as an effort to reach a transcendent ideal.

Indeed, according to Sen, Rawls himself later admitted that in the original position, it was a problem to reach a unanimous consensus on the single choice of principles of justice, but this incorrigible problem has had devastating effects on the theory of justice as truth. However, Rawls' theory, according to Sen, “played a great role in our understanding of various aspects of the idea of justice and enriched political philosophy with its thoughts” (Sen, 2009: 58). On the other hand, Sen (2009:18) sees that “the importance of experiences and realizations in human life cannot be replaced by knowledge about the creation and regulation of institutions and rules”. For Sen, people's actual lives are closely related to an achievement/skill-based understanding of justice and there is a need for such an approach to justice. According to Sen, institutions and rules are of course very important and they affect situations and events to a great extent. However, institutions and rules give only a certain part of the actual world, that is, this organizational picture does not include the ability or inability to manage one's own life.

Therefore, Sen sees himself closer to the justice tradition (comparative justice approach) to which thinkers such as Adam Smith, Jeremy Bentham, John Stuart Mill, and Karl Marx adhere. Sen states that comparative theorists focus directly on social realization (the consequences of actual institutions, behavior, and other influences) by clearly demonstrating the injustice in the world and striving to correct injustice. According to Sen, “these thinkers believed that injustices were correctable by gathering around the desire to eliminate injustice, rather than designing a completely unjust world” (Sen, 2009:7). At this point, Sen especially finds Smith's *Theory of Moral Sentiments* important and supports it. Instead of the veil of ignorance put forward by Rawls, Sen defends the concept of an impartial audience put forward by Smith. Sen points out that, Rawls used the concept of the veil of ignorance to bring objectivity to the discussion of justice. Rawls argued that participants chose the principles of justice under a hypothetical imaginary situation, assuming that participants under the veil of ignorance did not know their position. On the other hand, Smith put forward the concept of a neutral audience. Smith defined an impartial spectator who supervises, questions, or to some extent shapes an individual's moral actions. The individual in the society controls the rightness or wrongness of his moral action, just as if he were another person (impartial audience), and his action is shaped accordingly. The individual and the neutral audience are like two different selves and may not always be consistent with each other.

The impartial spectator is a second self-established in one's imagination, not one's character.

However, it precedes one's character and controls and shapes the other to a certain extent. In other words, for Smith, emotions and reason play a role together in shaping our actions or in the formation of character (Metin, 2010:68-69). Sen refers to the concept of an impartial audience, which Smith put forward as a means of achieving objectivity in public debate. Sen sees Smith's principle of the neutral audience as a more useful and uncomplicated application than the veil of ignorance in Rawls' original position. According to Sen, the impartial audience guides a perspective that takes into account deficiencies and incompleteness, does not need a fully competent, just world, but considers a reasonable and credible understanding of justice sufficient. Guided by such a perspective, Sen argues, we must rely on our capacity to determine justice, keeping it out of our interests and orientations. On the other hand, Sen (2009:20-21) refers as a useful example to two different words in the Sanskrit literature on ethics and legal doctrine in the ancient Indian legal system to better understand the contrast between the regulation-oriented approach and the realization-oriented approach to justice. *Niti* and *Nyaya* are two different concepts that replace/use justice in classical Sanskrit literature. These concepts are both different and related to each other.

The Concept Sen's *Niti* and *Nyaya*

The concept of *Niti* refers to organizational relevance and behavioral correctness and focuses on regulations and institutions. Thus, according to Sen, *Niti* replaces the idea of a perfectly just world, and in the modern world, it fits with the transcendental institutionalism approach that attempts to answer the question 'what do competent just institutions look like?' Despite that, the concept of *Nyaya*, on the other hand, is about emerging. In other words, *Nyaya* is a comprehensive vision or design of realized justice. That is, while *Niti* is the procedural sense of justice and the instrument of codification, *Nyaya* represents the more realistic and holistic sense of justice and focuses attention on detailed results. Besides, especially *Nyaya* guides people's lives in an actual way. But the establishment of reasonable, understandable justice is a prayer of both *Niti* and *Nyaya*.

Sen claims that, when justice is evaluated from the more inclusive and expanded perspective of *Nyaya*, the roles of institutions, rules, and organizations are of course important, but they are inevitably linked to the actual world. In this respect, he states that the concept of *Nyaya* fits the realization-oriented comparative justice approach. "In this approach to justice represented by *Nyaya*, the central question is not 'how perfect just institutions look like' but 'how can justice be developed?' (Sen, 2009:21). Emphasizing that in the ancient Indian tradition, there is a view to justice not as *Niti* but as *Nyaya*. Sen (2009:411) likens "the difference between transcendental institutionalism and social realization approaches regarding justice to the difference that exists between *Niti* and *Nyaya*".

In addition to this, Sen states that there was a discourse called *matsyanyaya* by the legislators in Ancient India. This discourse means that 'justice in the world of fish is that the big fish can swallow the small fish freely'. According to Sen, we need to consider this humiliating discourse, which legislators call *matsyanyaya*, for a specific application. Because, the main role of justice should be to avoid *matsyanyaya*, and 'justice in the fish world' should not be allowed to invade the human world.

According to Sen, here central acceptance is not a matter of judging institutions and rules, but of society's self-reasoning and the realization of justice with the consciousness of *Nyaya*. Sen affirm that, to avoid the *Matsyanyaya* example given above on the issue of justice, transcendental designs for the creation of competent just societies or social arrangements do not produce a solution. Sen states that "the realization-oriented approach makes it easier for us to understand

the importance of preventing sharp injustices seen in the example of matsyanyaya and to prevent or correct the injustices that exist in the actual world” (Sen, 2009:21).

In this context, Sen shows, as an example, the revolts of people to abolish slavery in the 18th and 19th centuries. According to Sen, who states that Adam Smith, Condorcet, and Mary Wollstonecraft are among those who emphasize that a society with slaves is unjust, it is not necessary to seek a consensus on what a just society is competent in the abolition of slavery; instead, slavery was overwhelmingly abolished. The American Civil War led to the abolition of slavery. Sen emphasizes that “the great strike launched for justice in America, the enhancement of justice through the abolition of slavery, cannot be shown within the transcendental institutionalism approach, but within the social realization approach (comparative justice approach or realization-oriented approach)” (Sen, 2009:22). According to Sen, a proper understanding of social realization – the view of justice based on Nyaya – “contains a comprehensive, broad explanation (including process) of the events and situations that occur through the right processes” (Sen, 2009: 24).

On the other hand, the global dimension of justice is of great importance in Sen's understanding of justice. Sen (2009:24) argues that “the dominant view of transcendental institutionalism in political philosophy has a restrictive/limiting perspective and this it emphasizes that it will not be possible to realize global justice from this perspective”. Sen sees the claim that a competent global justice can be created through the establishment of perfectly just institutions, which is put forward within the framework of the regulation-oriented (transcendental institutionalism) justice approach, as a transcendent and unaddressed claim. cannot meet the global level needs of our time needed for a just world. Indeed, applying the theory of justice in the Rawlsian approach requires a comprehensive clustering of institutions to determine the basic structure of a just society. When it comes to how to think about global justice, Rawls abandons his principles of justice and does not go for fanciful explanations. Rawls' later work, *The Law of Peoples*, pursues demands for justice as truth but tries to show how this will happen between countries. However, according to Sen, “this addition, which includes the resolution of the fundamental problems of humanity through negotiations between the delegates of different countries, remains very weak and qualifies justice in a very limited way” (Sen, 2009:26).

At this point, Sen asks, “What is the international reform we need to create a less unjust world?” (Sen, 2009:25) asks the question. Seeing mass global inequality and poverty as a fundamental problem at the center of globalization, Sen emphasizes that the interests of deprived and oppressed countries should also be taken into account adequately in terms of benefiting from economic connections, technological advances, and the benefits of political opportunities and that the enormous benefits of globalization should be shared more equitably draws attention to the need According to Sen (2010:156), “the poor should have a better and fairer arrangement with less economic, social and political inequalities of opportunity. It should be discussed what the international and domestic reorganizations will provide. At this point, the introduction or strengthening of public regulations for social security and other supportive public interventions can have important consequences for Sen.

Sen encourages people to achieve global justice in the world for a competent just society and argues that this may generate consensus through public debate, although disagreements on other issues persist. In this context, Sen emphasizes that the institutional structure of today's world should be reformed so that injustice can be much less and existing injustices can be corrected. For example, Sen sees that the drugs needed by poor patients suffering from AIDS can be produced more easily, sold cheaply, and easily found in the market, and the reorganization of the laws

regarding this is a clear-cut problem that has some implications for global justice. On the other hand, Hobbes, in *Leviathan*, which was published in 1651, drew attention to the fact that people's lives were 'evil, wild and short', which can be called quite exemplary. Sen (2009:412) argues that “this determination of Hobbes unfortunately still constitutes a good starting point for today's theories of justice”. According to Sen, despite significant material progress, these terrible features are present in the lives of too many people in the world. Sen's approach emphasizes people's lives and capacities, their deprivation, suffering, and oppression. In this context, Sen states that different theories of justice have some common assumptions about the characteristics of human existence: humiliating and embarrassing them, making them suffer, cruel, unable to sympathize, argue, disagree, etc. Sen put it that, the strong presence of such features in human life does not tell us to choose a particular theory of justice but indicates that we should pursue justice in general, even though we have different lifestyles, and drive out injustice from human society.

In his argument, Sen states that he puts a lot of emphasis on human capacity/ability and presents it to other theories of justice. According to Sen, understanding, participating in the feelings of others, reconciliation, cooperation, and communication are some of the basic human abilities and it should not be inevitable that some people and societies are deprived of these and doomed to isolated lives. Sen considers it very important to avoid isolation in terms of the quality of human life. According to Sen, Hobbes points out the difficulty of being alone by drawing attention to the fact that people's lives are 'bad, wild and short' in *Leviathan*. In other words, here, Sen's thoughts on the situation of the isolated people and the difficulty of being alone, which Hobbes points out, are the same things (Sen, 2009:415). Sen states that we are exposed to a lot of things, from hunger to oppression, in a world that is bad enough, and even worse, he points out that we fight and fight with each other, but we cannot communicate with each other. At this point, Sen calls for the reproduction of real democratic opportunities and spaces for discussion and emphasizes public reason. In the last part of *The Thought of Justice*, Sen deals with the practical problems faced in the last quarter century and argues that justice should have a global dimension today. Sen, who does not propose an ideal of justice in Rawls's way, invites us to a non-local, neutral mind. You look through the eyes of Smith's impartial audience, without assuming that something can only be done in one particular way emphasizing that we need to review our preferences, tendencies, and practices (Sen, 2009:394-396). Calling us to depend on public reason unrelated to some kind of ideal in achieving justice, Sen states that we must consider social arrangements as a whole to evaluate their far-reaching effects without obsessively clinging to formal and procedural rules, comparing the impact of certain policies made in the name of impartiality and integrity. (Sen, 2009: 408-409).

Finally, Sen states that the dominant theory of justice today is under the approach of transcendental institutionalism – even if it is endorsed as well-intentioned rhetoric – many of the problems related to justice are overlooked. At this point, Sen argues that there is a real need for a departure from the restrictive/limiting transcendental institutionalism approach that dominates the theory of justice. (Sen, 2009:26-27). Although *Niti* and *Nyaya* are both translated as justice, he makes us adopt *Nyaya* rather than *Niti*, he adopts Smith rather than Kant. According to Sen, this type of public reason should regulate the spheres of activity of certain societies globally, without limiting their freedom any longer. At this point, Sen sees it as a necessity for especially rich and powerful countries to have the perspective of an impartial audience. Sen argues that rich and powerful countries should compare other lives that are severely limited – malnutrition, poverty, persecution, and oppression -with their own and that they should look after the interests of the poor and powerless (Sen, 2009: 403-407). According to Sen, if we try to see things from the perspective of those around us, we can also look after the interests of those outside of us and form solidarity with them. While admitting that this is not an easy thing at all, Sen proposes a paradigm

that “we can start by trying to be a global impartial audience in our own lives and work” (Brown, 2010:11). Because it is to create a human-centered justice paradigm that changes obsessive commitment to the justice approach focused on regulating the structures of institutions and rules, does not put forward the illusory goal of finding a universal definition of a just society, but instead offers a pluralistic perspective to justice by showing sensitivity to behavioral contexts and practical reason.

Analysis of Amartya Sen's Approach to Justice

Along with liberalism, the concepts of individual and freedom were placed on the basis of views on justice. In liberalism, the individual and freedom are exalted and made important. An individual is a person whose purpose is in him and who has the basic rights of life, freedom, and property. The state has to make legal arrangements by considering all these rights. The purpose of the justice mechanism is to protect the rights of the individual. The only duty of the state is to dispense justice within the framework of the freedom and rights of the individual. The freedom and rights of the individual cannot be touched in any way, including by the state. The state is the state of law, and justice is the protection of rights in any form. Since liberal doctrine stipulates freedom in exercising rights, justice has also been considered freedom in most cases. At this point, however, it becomes confused whether freedom is an end or a means. Because, in this case, freedom is both an aim to be realized and a means to realize the aim. If freedom itself is considered a right, the importance of the concept of the right to justice in liberalism can be easily understood.

The exercise of rights requires freedom. A person can be free in proportion to the rights he has. For example, if the individual does not have the right to vote, there is no freedom to vote. Ensuring rights also means providing freedoms in a way. Because there is an internal link between human rights and freedoms (Gündoğan, 2003:2-3). Here, it is possible to see this inner link between human rights and freedoms in the capacity approach of Amartya Sen, a professor of economics and philosophy. For Sen (2004a:108), capability describes “alternative combinations of functions that a person can achieve”. According to Sen, the distribution of rights and capabilities is often much more than the distribution of income is unequal. The initial unequal distribution of capacities ensures the social reproduction of inequality. However, the concrete meaning of the endowment of access to rights in the field of social policy is the need for initiatives aimed at the redistribution of capabilities

Sen claim that, the need for redistribution of capabilities to reduce inequalities is not limited to the redistribution of national income. For example, according to Sen, poverty is not only a lack of income but also a lack of rights and capacity to benefit from the opportunities offered by life. Rights such as the right to education, the right to health, the right to access culture and other collective services, civil and political rights, and especially the right to participate in public decisions, are as important as the right to cash income as they expand the capability to make choices and decisions, and their lack is the source of poverty on the one hand. On the other hand, they are concrete manifestations of poverty as well as lack of income. Sen states that, these rights together with cash income rights form a whole and define individual freedoms (İnsel, 2000:18-19).

Amartya Sen's Capability Approach

Organized within the framework of the United Nations Development Program (UNDP) in the late 1980s, “the foundations of the capability approach were laid by Amartya Sen and Martha Nussbaum” (Tilak, 2002:192). Developing the Human Development Index (HDI) together with Mahbub ul Haq in 1989, Sen, unlike other development indexes, took into account competencies

such as basic education and basic health. The aforementioned “feminist economics has been greatly benefited from in the development of the index and in revealing the importance of certain freedoms that cannot be realized” (Sen, 2004b:80). Sen, “developed the human development approach in 1999 and presented it as a capability approach” (Tilak, 2002:192). The capability approach of Sen, “which is the most serious criticism developed against utilitarian liberal justice theories” (Seker, 2009:260), shows an interdisciplinary feature, and human welfare is approached from multidimensional perspectives. This approach provided both a theoretical basis for the human development paradigm and was used in empirical studies. “The capability approach focused on what people can do and become effectively, instead of dealing with their happiness or income and expenditures, and was concerned with the question of 'what is equality?' in liberal political philosophy” (Nussbaum, 2005:168; Robyns, 2005:93). The capability approach, unlike traditional income or benefit-based development approaches, proposes a development approach that is seen as a process of expanding the basic freedoms that people have. The expansion of freedoms is seen as both the main aim and the main tool of development. Sen defines these as the founding role and instrumental role of freedom in development, respectively.

The constitutive role of freedom, the fundamental freedoms of humans It's about enriching your life. Fundamental freedoms include basic capabilities such as the freedom to avoid hunger, malnutrition, preventable diseases, and premature death, as well as the freedom to enjoy literacy and calculus, political participation, and free expression. Instrumental freedoms, on the other hand, are concerned with how different kinds of rights, opportunities, and entitlements contribute to one's overall capacity to live more freely. For example, instrumental freedoms such as political freedoms, economic opportunities, social opportunities, transparency guarantees, and protective security tend to contribute to the general capacity necessary for a person to live more freely (Sen, 2004a:57-58). “Benefit and income approaches gave priority to other standards of development and did not care about the role of values such as rights and freedoms in human welfare” (Sen, 2000:19). This approach, which presents a broader picture of human development, does not deny the instrumental importance of the growth of national income and individual income in terms of expanding freedoms but denies seeing them as an end. In addition, people should be given the right to exist and develop their capacities. In the capacity approach, the aims of justice, development, and human welfare are conceptualized in terms of people's competencies. Sen has drawn attention to the link between instrumental, mental, and social well-being, or between the economic, social, political, and cultural dimensions of life.

Addressing the phenomenon of development in terms of capacity development and examining the quality of human life in terms of qualifications, Sen built his human competencies approach on a democratic understanding. “Human competencies cannot be developed without democratic freedoms. People are social beings and they become human by interacting in society. Competences cannot fully develop without participating in political and social life” (Sen, 2002:79). Therefore, “political freedoms are central to human well-being” (Nussbaum, 2000:221) and “It is a critical element in the realization of development as freedom” (Sen, 2002:79). However, different kinds of freedoms reinforce each other because “the bonds between them are empirical and causal rather than constitutive and regulatory” (Sen, 2004a:57). In the capability approach, Sen sees the freedoms of individuals as the basic building blocks. This is about “individuals' being able to choose the lifestyles they value” (Sen, 2004a:101). In this context, what is valuable for you is freedom itself, not what is achieved with freedom.

Sen's interest is in expanding the capacity of individuals to achieve the lifestyles they value. A person's capacity “describes alternative combinations of functions that that person can achieve” (Sen, 2004a:108). So what matters here is the capacity for action, which is what reflects the

various things one might want to do or be. Emphasizing the concept of capability as well as capacity for action, according to Sen, capability is an essential freedom (freedom to acquire various lifestyles) to reach alternative combinations of action capacity. In other words, “capability is the capacity to use the goods and services owned or achieved and to benefit from and reach individual-social rights” (Albayrak, 2003:74). In this case, capacity emerges as the freedoms that enable an individual to reach the lifestyle they value. In other words, capacity is the absolute necessities that are necessary for a person living in society to be a true individual and it expresses the freedom of the individual to make choices in life. Therefore, Sen considers the lack of capacity much more important than the lack of income.

Unlike the classical definition of poverty, Sen does not explain poverty only with income poverty, it means income poverty and capacity/sufficiency poverty distinguishes between two types of poverty. Sen stated that, the contribution of the increase in goods and services in a country in preventing poverty and providing justice cannot be denied, but these alone are not enough to increase the quality of life of people. In addition, people's capacities should be increased. Sen sees actual poverty as a state of being deprived of basic capacities, so for Sen, increasing capacities takes priority over increasing wealth and goods. Because, according to Sen (2004a:131), “income is only instrumentally important; however, the lack of capacity is a problem related to the existence of man, his field of existence”. Therefore, for Sen, income or wealth is not the main thing that a person wants to achieve, but the means that he uses to achieve another goal - increasing the capacities. For example, getting basic education and primary health care services will both improve the quality of life of the individual and contribute directly to his emancipation by increasing his income earning ability. For this reason, Sen sees the improvement of basic education and general health services as priorities that a country should implement in the first place. Sen argues that countries that can fully realize these priorities will not experience extreme poverty and injustice. As can be seen, Sen's understanding of poverty is multidimensional, unlike traditional economic theory. Because in traditional economic theory, poverty can be reduced by economic growth and increased labor productivity; government intervention in free markets and unemployment increase poverty. The important thing in traditional economic theory is to produce more goods effectively and to maximize utility. On the other hand, the "capability approach is a universal approach, every thought, every individual, and everything that is considered as a goal is important" (Nussbaum, 2000: 241). In addition, it is emphasized that "there is a very close relationship between human rights and human competencies" (Nussbaum, 2000:243, 2005:184; Osmani, 2005:206; Sen, 2005a:163, 2005b:8).

Examining poverty and human rights from the perspective of the capability approach, Osmani (2005:206) sees the "capability approach as a bridge connecting human rights and poverty". “Morality should be applied while explaining human rights” (Sen, 2005a: 153), because “rights are moral reasons based on a moral basis and they should be handled without prejudice and impartially” (Sen, 2005b:8). According to the capability approach, which sees all rights and competencies as a fundamental issue of justice, “human rights and human competencies should be considered together” (Nussbaum, 2000:244, 2005:184; Sen, 2005a:153). Considering these facts together helps to better understand each case. Some freedoms should be seen as rights because freedoms and rights are necessarily interrelated. Therefore, “fundamental freedoms need to be protected, integrated, and expanded” (Sen, 2005a:185).

Fundamental freedoms include “basic capabilities to avoid hunger, malnutrition, preventable diseases, and premature death, to receive education, to benefit from political participation and free expression” (Sen, 2004a:56). On the other hand, the capacity approach also draws attention to the fact that in traditionally sexist societies, women's capability is seen as worthless and

limited compared to men. “The aforementioned approach, which considers women's rights as human rights, argues that unequal social and political conditions for women provide women with unequal human competencies/capacities” (Nussbaum, 2000:240, 2005:183). Regarding women who have less support in the basic functions of human life in most parts of the world, Sen has used the conceptualization of 'missing women'. “The 'missing women', who are only equal in theory, are second-class citizens in real life” (Nussbaum, 2000:241). Mary Wollstonecraft described the world as a vast prison that confines women to limited creativity. According to Sen, “Two and a half centuries ago, the description of Wollstonecraft, who lived and started the defense of human rights, is still valid today” (Sen, 2005b:3). In his work on gender, Sen identified that women are exposed to inequalities and thus deprivations in all areas of social life. According to Nussbaum (2000:242), this situation is “not acceptable in terms of universal norms of equality and freedom, and needs to be reconsidered in terms of the distribution of opportunities and resources.” There is a need to allocate more resources to individuals or groups facing such problems. “Education plays the most important role in solving such problems in terms of creating higher consciousness and providing options” (Nussbaum, 2005:184).

In the capability approach, education is considered a fundamental human right beyond its economic importance, and rights are seen as an extension of human freedom. “Seeing education as a right highlights a broader educational perspective that focuses on people's ability to choose the lives they value” (Sen, 1997:1959). Education and capacity interact with each other. Capacity refers to the alternative combinations that a person is likely to choose. Thus, “capability thinking focuses on the freedom that allows a person to decide how to live” (Saito, 2003:20). Therefore, “not being able to get an education or having a low level of education deprives individuals of their freedom” (Costantini & Monni, 2005:335). “The individual's inner peace, self-confidence, employment opportunities, and the opportunity to take various valuable actions increase through education” (Alkire, 2005:129).

Returning to the capability approach, education expands human competencies. Individuals who expand their competencies and learn values through education become freer. Education is seen as a phenomenon that expands individual freedoms. This approach, which sees individual freedoms as the basic building blocks, sees education as a value in whether individual freedom of action is restricted or not. In other development approaches, education is a tool to increase earnings, while the capability approach sees education as an end in itself. According to the capability approach, the lack of education is not only the cause of poverty but also poverty itself, as mentioned before, it does not explain poverty only with income poverty, but also distinguishes two types of poverty: income poverty and capacity/adequacy poverty. According to Sen, real poverty is capacity/competence poverty; “Capability/competence poverty describes the state of being deprived of certain rights, opportunities, and options” (Sen, 2004a:101).

As seen above, Sen's approach in today's economic theory is a new first step in the effort to get rid of the stubbornness of seeing all preferences and all concrete needs as the specific form of an abstract and general need concept such as utility. While using the standard tools of economic theory, on the one hand, Sen, on the other hand, defined utility as an individual's capability for action rather than welfare. This definition takes it away from the need to interpret utility as happiness or the satisfaction of desires. Utility, which is defined as an individual's capacity for action, is expressed in the concepts of choice and freedom.

In other words, contrary to the welfare theory, which is based on the utility-happiness couple, Sen's theory of freedom, argues that utility reflects the individual's capability to act, not the result. The two concepts that come to the fore in ethics are choice and freedom. Freedom is the

enlargement of the possibilities of attaining a lifestyle that one values and there are reasons for this evaluation. In this context, the main goal of development is freedom. The main axis of Sen's approach is the idea that holding freedom itself better represents the individual's benefit, rather than what happens through freedom. For you, freedom is valuable not only because it allows you to realize certain things, but simply because of its importance, beyond the value of the state of being achieved. Therefore, only formal liberties, resources, and income are not sufficient for freedom; the capability to use and develop basic human activity opportunities is essential. The capability to choose and to exercise this choice is the complement of freedom. Reaching a position of choice is not limited to the act of maximizing individual interest (Insel, 2000:15-17).

As a result, instead of the 'self-interested' type of person caused by utilitarianism, which is one of the strong currents of the Enlightenment philosophy, the human, who is the decision unit (agency) as an individual with identity, is the basic axiom of the capacity approach, and with this broad perspective that he brought to the definition of economic human (*homo economicus*)" advocated that welfare economics should be methodologically addressed within a broader set of variables (such as famine, hunger, injustice, income distribution, malnutrition, and gender discrimination)" (Seker, 2009:275). While positivist and unethical economics methodology excludes such evaluative approaches because they are not measurable variables with the concern of being scientific, with Sen's capacity approach, which accepts the development of human potential as a basic proposition, "many basic variables pushed out of welfare economics, without compromising scientificity and measurability, are theoretical researches." is included in it" (Seker, 2009:270).

Conclusion

Sen's concept of *Niti* and *Nyaya* are capable of ending societal injustice and bringing justice through the realization process. The *Niti* according to Sen is an idea of a just world, it is a procedural sense of justice and the instrument of codification. *Nyaya* is a comprehensive vision or design of realized justice. It represents the realistic and holistic sense of justice and focuses attention on detailed results. The main task of *Nyaya* is preventing *matsanyaya* i.e. big fish-eating small fish which is an injustice. The main role of justice should be to avoid *matsyanyaya*, and 'justice in the fish world' should not be allowed to invade the human world. Sen central acceptance is not a matter of judging institutions and rules but of society's self-reasoning and the realization of justice with the consciousness of *Nyaya*. In other to achieve this, he calls for the reproduction of real democratic opportunities and spaces for discussion and emphasizes public reason through human reason by differentiating between justice and injustice through a realization process. This will eradicate social injustice and usher in a system of equality and fairness

References

- Alkire, S. (2005). Why the capability approach? *Journal of Human Development*, 6, 115-133.
- Costantini, V. and Monni, S. (2005). Sustainable Human Development for European Countries. *Journal of Human Development*, 6, 329-351.
- Gundogan, A. O. (2003). *Right and Justice*. Retrieved on July 26, 2010 from <http://www.aliosmangundogan.com/PDF/Bildiri/Ali-Osman-Gundogan-HakveAdalet.pdf>
- Insel, A. (2000). Ethics of Freedom versus Economic Theory: Amartya Sen's teaching on Ethical Economics. *Journal of Society and Science*, 86, 7-21.
- Nussbaum, M. C. (2000). Women's Capabilities and Social Justice. *Journal of Human Development*, 1, 219-247.
- Nussbaum, M. C. (2005). Women's bodies: Violence, Security, Capabilities. *Journal of Human*

Development, 6, 167-183.

- Osmani, S. R. (2005). Poverty and human rights: Building on the capability approach. *Journal of Human Development*, 6, 205-219.
- Saito, M. (2003). Amartya Sen's capability approach to education: A critical exploration. *Journal of Philosophy of Education*, 37, 17-33.
- Seker, F. (2009). The capacity approach of Amartya Sen. *Journal of Erciyes University Faculty of Economics and Administrative Sciences*, 32, 259-280.
- Sen, A. (1997). Editorial: Human capital and human capability. *World Development*, 25, 1959-1961.
- _____. (2000). A decade of human development. *Journal of Human Development*, 1, 17-23.
- _____. (2004a). *Development with freedom*. (Trans. Yavuz Alogan) Istanbul: Ayrıntı Publications.
- _____. (2004b). Dialogue capabilities, lists, and public reason: Continuing the conversation. *Feminist Economics*, 1, 77-80.
- _____. (2005a). Human rights and capabilities. *Journal of Human Development*, 6, 151-166.
- _____. (2005b). Mary, Mary, quite the contrary! *Feminist Economics*, 11, 1-9.
- _____. (2009). *The idea of justice*. Cambridge, Massachusetts: The Belknap Press of Harvard University Press.
- _____. (2010). *Identity and violence*. (Trans. Ahmet Kardam) Istanbul: Optimist Publications.
- Tilak, J.B. (2002). Education and poverty. *Journal of Human Development*, 3, 191-207.