

CHAPTER FIVE

CONTEMPORARY THEORIES OF JUSTICE

Rawls wonderful works on justice resurrected political philosophy in United States as well as in other countries. This last chapter elaborately discusses about some of the most trending attempts by the most distinguished contemporary political philosophers which are quite preferable as alternatives to Rawls's theory of justice. In short, these various approaches outline a scenario of some recent approaches to flourish the concept of justice in the wake of Rawls's conception of justice. Some of these theories of justice are discussed below:

- ❖ **5.1 Amartya Sen's Idea of Justice:** Amartya Sen presented his theory of justice in an explicit way. Instead focusing on nature of perfect justice he is interested to turn his attention towards enhancing justice and removing injustice. In this context, his theory differed from previous contemporary political and moral philosophy. Modern theories of justice focuses on making 'just society' but Sen tries to explore realization-based comparison that concentrate on enhancement or retreat the concept of justice. In this context, it is not in line with the potent and more philosophically glorious tradition of transcendental institutionalism that appeared in the period of Enlightenment which conducted by the famous political philosopher Hobbes and flourished by Locke, Rousseau and Kant. But later it took shape in the same age through the Writings of Wollstonecraft, Adam Smith, Bentham, Mill, Marx and many others philosophers. But Sen's position stands in a different perspective totally.

Though the concept of social justice is an important matter of discussion over the ages but it received a special and powerful encouragement during the European Enlightenment. In this regards, on account of justice there are two basic divergent among the leading philosophers of this period that makes two different approaches about justice. Amartya Sen before presents his own idea of justice, wants to begin his theory with this dichotomy about the subject of justice which helps to understand theory of justice.

The first approach which was led by Thomas Hobbes and later followed by such famous thinkers in different ways; such as, Rousseau focuses his attention by recognizing just institutional arrangements for society. This approach known as ‘transcendental institutionalism’ and it has two different characteristics. **First**, rather than comparison between justice and injustice it focuses to identify the perfect justice and it only tries to determine social dispositions that cannot be transcended in terms of justice. **Second**, in searching for perfection, transcendental institutionalism does not directly concentrate on actual societies rather it basically focuses on getting the institutions right.

Both of these above features related with the ‘contractarian’ mode of thinking which was initiated by Thomas Hobbes and further followed by Locke, Rousseau, and Kant.

However, it is important to note that, in search for perfectly just institutions on account of socially appropriate behaviour, transcendental institutionalists presented a manifesting exploration of political and moral obligations. Kant and Rawls both are

interested to apply these kinds of imperatives and for behavioural norms they provided a far-reaching analysis. Though they have given emphasis on institutional choices, but their analysis broadly showed an ‘arrangement-focused’ approach about justice and with this they include the right that is conducted by all as well as right institutions.

On contrast of transcendental institutionalism, the second approach that is known as social realization held by some other Enlightenment theorists such as, Adam Smith, Jeremy Bentham, Mary Wollstonecraft, Karl Marx, J.S Mill and many other innovative thinkers of eighteenth and nineteenth centuries. With their very distinct ideas regarding demands of justice these authors proposed to make social comparisons in a quite different ways. They do not like to confine their experiment within transcendental queries for making a perfectly just society rather they all are engaged in comparison of societies which has already existed or could possibly emerge. They claim that, in most of cases those who emphasizes on realization-focused comparisons are primarily interested to wipe up the growing injustice from the world that they are living at present.

The distinction between these two approaches, transcendental institutionalism and realization-focused comparison is very important. It is the first tradition of transcendental institutionalism where today’s mainstream of political philosophy extensively draws in its inquiry of doctrine of justice. The strongest and important interpretation of this approach about justice was found in the work of John Rawls. Though Rawls deals with social-realizations-focused comparison where in context of moral and political aspects he expressed the norms of right behaviour, but his ‘principles of justice’ completely focused on making a perfectly just society. There are

number of pre-eminent contemporary thinkers of justice who have elaborately discussed justice and taken transcendental institutional route, such as Ronald Dworkin, Robert Nozick and many others. Though they have provided different theories about justice, but they share a common aim which is important for 'just society'. Therefore, modern theories of justice making a perfect just institution which become the central discussion matter.

To shed light on the contrast between realization-focused and arrangement-focused of justice Sen brings a distinction from ancient Indian ethics and jurisprudence. In classical Sanskrit two different words *niti* and *nyaya* stand for justice. The term *niti* relates to behavioural rightness and organizational accuracy. On the other hand, *nyaya* concerned with a comprehensive idea of realized justice or how people actually able to lead their life.

To figure out a particular application, ancient Indian judicial theorists talked mortifyingly of what they designated as *matsyanyaya*, where the big fish freely raven the small fish. So, in justice *matsyanyaya* should be avoid and it is important to ensure that the 'justice of fish' does not invade on human beings in this world. Here the main point is the realization of justice in terms of *nyaya* does not only judge the rules and institution even it judges the societies themselves. It does not matter how properly the set up organizations might be, as *nyaya* if a big fish still willingly raven a small fish then this must be a case of open and clear infringement of human justice.

Amartya Sen, to explicit the difference between *niti* and *nyaya* give a suitable example.

Ferdinand I, the Holy Roman Emperor, famously claimed in the sixteenth century: ‘Fiat justitia, et pereat mundus’, which can be translated as ‘Let justice be done, though the world perish’.⁹⁴

This example is a very severe maxim that consider as a form of *niti* which upholds by something, but when people perceive justice in extensive form of *nyaya* then it will be difficult to assist with the whole disaster as a case of a just world. As a matter of fact if the world perish then there would be nothing much left to glorify for that exclusion, even though, the rigorous and austere *niti* leading to this absolute outcome could conceivably be protected with different sorts of sophisticated reasoning.

Sen claims that, through realization-centred perspective it is easy to understand the importance of restraint of growing- up injustice in this world instead of seeking perfect just. He gives an example that, in 18th and 19th centuries when people show their anger against slavery and tries to abolish it then they are not doing it from the belief that annihilation of slavery would set up a perfectly just world. In that case they only claim that, any society with slavery is entirely unjust. Sen asserts,

⁹⁴. Sen, A., *The Idea of Justice*, p-21.

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.⁹⁵

According to Sen, the arrangement-focused perspective of *niti* is mostly explained in a way that make the presence of suitable institutions adequately fulfil the demands of justice and on the other hand, the broader aspect of *Nyaya* would imply the essentiality of inquiring what social realizations are truly produced through this institutional ground. Such a process can help to accommodate and incorporate perverse points of view. For the modern world Sen identifies such principles for justice that will help to prevent parochialism and locate the important questions of global injustice.

Amartya Sen wants to need a theory of justice that is not restricted with the choice of institutions and ideal social arrangements. To him, justice cannot be disinterested about the life that people actually live and human lives, realizations or experiments cannot be displaced by the rules and institutions. Though rules and institutions are most momentous in influencing what happens and these two are the part and parcel of the actual world, but the realization actuality goes beyond the institutional picture and includes the life that people manage or do not manage for live. He states that, for the well-being of people freedom is an important part through which people can choose their lives. Freedom and capabilities are valuable elements for the people and it is absolutely depend on them that they can decide how to utilize their freedom. Freedom to choose gives opportunity to the individuals to decide what they should do

⁹⁵ . Op.cit., p-21.

and that opportunity bring responsibilities for the people that they should choose the right actions that is beneficial for mankind.

In any theory of justice institutions play an important role. In short, it is a central element in theory of justice. Rather than treating institutions as disclosure of justice, it is important to seek those institutions that enhance justice.

According to Sen, principles of justice are not defined in terms of institutions rather it defined as lives and freedom of human being. For pursuit of justice institutions play an important instrumental role. Social behaviour and determinants of a correct choice of institution has occupied a critically significant position in promoting justice. It comes into the consideration in several ways. It can directly contribute to the life of people that helps to lead them in accordance with their reason to value. Even it is more significant in simplify individuals capability to scrutinize the priorities and values that people can envisage; for instance, the opportunities of public discussion (freedom of speech, right to information, facilities for informed discussion).

Sen introduces the social choice theory in his idea of justice which was first found in the time of French Revolution. It is known as one kind of systematic discipline. From the various features of social choice theory justice can make a great deal. Social choice theory is an evaluative discipline that deeply bound up with the rational based social judgements and public decision in choosing among social alternatives. From social point of view, the consequences of social choice procedure take the structure of ranking various states of affair and it will be judged in light of assessments of people involvement. The individual ranking works as informational

inputs that can be explained from many ways and for the social choice theory this versatility is most imperious. For harmonious social assessments individual's ranking is necessary to accommodate the social choice arrangement.

According to Sen, social choice makes a framework for reasoning and it is more relevant for justice. Social choice theory has concerned with comparative assessment and it is most significant contribution to theory of justice. This approach is not a transcendental one rather it is a relational framework. It's not concentrates on what a perfectly just society would look like rather it focus on practical reason that helps us to make right decision as well as choose the right things. The theory of justice reveals about the choices that are really an offer and it does not keep people submerged in a hypothetical and impossible world of invincible magnificence.

Social choice approach has given a special acknowledgment to the plurality of reasons and this demand people's attention when issues of social justice are taken into account and sometimes they may contradict with each other. This essential plurality may or may not lead to an insignificant consequence rather it conferring an impasse. But the necessity to take note on potentiality of viable impingement of non-eliminable principles can completely most important in theory of justice.

Amartya Sen gives a special attention on individual's voice. It is important as every individual's interest is involved and each person's judgement and reasoning can enrich any discussion matter. In his words, this can be called as 'enlightenment relevance'. He added that, one's judgement may be seen as significant as he or she is one of the members of the parties who directly involved in an evaluation or assessment

process or his reasoning and perspective bring an important discernment and insights into the evaluation.

Sen in his idea of justice bring another concept which is impartiality. To him, in appraisal of societal arrangement and social justice impartiality is a pivotal element to realize doctrine of justice. However, there are two types of impartiality and there is a basic distinction between these both kinds of impartiality. These both impartiality calls as 'open' impartiality and 'closed' impartiality. In 'closed impartiality' the process of making impartial judgement includes only those persons who are the member of a nation or given society for whom the decisions are being made. For example, Rawls uses original position in system of 'justice as fairness' and within a given political community makes a social contract among the citizens, no outsider or a party will be engaged in this contractarian process.

On the other hand, in 'open impartiality' to avoid parochial partiality it includes outsider of focal group to make impartial judgements, such as, in '*The Theory of Moral Sentiments*' for the requirement of impartiality Adam Smith applies the device of 'impartial spectator', who is not necessarily belonging to the focal group and he renders a disinterested and fair judgement. Smith asserts that, impartial spectators do not have any boundaries, it may come from everywhere whether it comes from a community or a nation or a culture.

For theory of justice this distinction is most important. In form of original position Sen does not prefer close impartiality as it confines the basic idea of principle of justice within a parochial local perspective and bring such kinds of prejudice.

Sen believes that, 'open impartiality' appropiates different sorts of unbiased and unprejudiced perspective and motivates people to take benefits from the insights that come from distinguish impartial spectators. The various significant aspects (some are useful and some are aberrant) of people (as we human being are diversely diverse) is a component of understanding which open impartiality tends to produce.

Any distinct theory of political philosophy and ethics specially any theory of justice emphasises on choosing informational based elements. On account of assessing justice and injustice or even judging a society, it is important to determine which elements of this world people should give their attention. In this connection, it is most important to have an attention on how we assessed an individual's overall progression or improvement? According to Jeremy Bentham, individual's happiness or pleasure or utility is the best way to assessing the overall advantage of a person and that method is a best way to determine any person's advantageous place in comparison with other persons. In economics, there is another approach where in terms of one's wealth or resources or income it assesses his advantage. These various alternatives criterion of assessment of a person's advantage brings confliction between utility-based or resource-based approaches and freedom-based capability approach. And to find a better perspective for individual advantages Sen introduced his capability approach.

On contrary with utility-based or resource-based approach capability approach judged individual advantage by the help of a person's capability to do those things what he or she has reason to value. In other words, in terms of opportunities his advantage is judged by his capability in comparative with others to achieve those things what he or

she has reason to value. This approach focuses on freedom of a person that he actually wants to do this act or other types of act what he may give value to doing. Obviously, it is important for a person to be able to achieve such things what he particularly gives most value. But, notion of freedom holds, people are free to determine what they value, what they want and what they decide to choose. Thus, the idea of capability is closely connected with the opportunity aspect of freedom. But the opportunity aspect must be treated in terms of 'comprehensive' outcomes instead of culmination outcomes.

It is necessary to clarify some of the specific features of capability approach, as they have often misinterpreted or misunderstood. **First**, in judging and comparing overall advantages of an individual it emphasizes on informational focus, but it does not give any specific formula about how that information may be applied. Basically, this approach does not give any particular 'design' about how a society should be constructed with the help of informational focus and rather in terms of opportunity it judged individual advantages.

Capability approach point out the significant role of inequality of capabilities in evaluation of social disparities, but this capability approach does not present any particular formula on policy decisions. Similarly, in judging total advancement of a society capability approach gives too much attention on expansion of capabilities of all members of the society, but it does not propose any formula about how to deal with the confliction between aggregative capabilities and distributive capabilities. Yet, concentration on informational focus of capability approach is quite important as it gives valuable ways for what kind of decision would be made or what kind of information may use and in case of making policy analysis it gives the right

information. On account of assessment of societies and social institutions informational focus plays a great role and that is the main contribution of capability approach.

Second, capability approach emphasises on diversity of various features of human lives and concerns. People give importance on various attainments in human functioning. Such as, getting well nourished life, avoiding premature death, taking part in community life and for pursuing work-related plans and ambition one's has to develop his skill etc.. Capability perspective concentrates on human life, not just some objects of amenities; such as, incomes, commodities which are taken as main criteria of human prosperity in economic analysis. Indeed, this approach focusing on actual opportunities of living rather than means of living. These approach departures from means-centric evaluative approaches. Here it is noticeable that, Rawls proposes 'primary goods' that are known as all-purpose means; like, income, wealth, powers and prerogatives in office, self-respect as the social bases and so on. But, according to Sen, these primary goods merely play the role of means to achieve valuable ends in human life. In Rawls's principles of justice primary goods become the primary criteria for judging distributional equity. Sen does not agree with this point and assert that, primary goods are only means to other things, specially freedom.

According to Sen, capability approach does not focuses on means rather it particularly concerned with actual opportunity that helps to fulfil the ends of human life and individual freedom to obtain those reasoned ends. For example, if a person earn high income but he has continuously suffers from adverse illness or suffers from some serious physical disability, then on the ground of his high income we cannot right to call him as a much advantaged person. Though he possessed high income, wealth but

these fail to give him a good life as his persisting illness and physical disability. So, Sen thinks that, instead of primary goods here it is important to concern how he can actually achieve a healthy life or overcome from his physical difficulties and being fit as enough to perform what he has reason to value. In this connection Sen argues-

To understand that the *means* of satisfactory human living are not themselves the *ends* of good living helps to bring about a significant extension of the reach of the evaluative exercise.⁹⁶

Sen claims, the use of capability approach begins right from here.

There has other feature of capability approach and to prevent the misinterpretations that may be worth to mention here.

Sen deals with a practical illustration of sustainable development and environment issues. He thinks, in contemporary world today environment faces many threats and for the quality of life it is most important to identify the content and relevance of 'environmental issues' as well as demands of the sustainable development.

Sometimes environment seen as the 'state of nature' which includes the depth of underground water layer, extent of forest cover, member of living species and so on. If we assume that, this pre-existing nature will remain intact unless we add pollutants in it. Therefore, it might seem that, environment is best protected if we interfere little with it. This idea is most defective for two important reasons.

⁹⁶. Sen, A., *The Idea of Justice*, p-234.

First, the value of environment determine not only by the matter of what there has in environment. It even consists on the opportunities that the environment offers to the people. In evaluating the value of environment the influence of environment on human life is necessarily the major consideration. To understand this matter Sen gives a suitable example, the eradication of small pox or disappear of small pox viruses is not viewed as the exterminate of creation or destruction of ecology. Therefore, the connection of ecological changes and how this makes impact on human lives must be taken into consideration. The value of environment cannot be assessed if it detached from the lives of living creature beings. Sen, for the enrichment of quality of human life proposes ‘sustainable development’. This is one type of development where for our present need we do not compromise with the need of future generation. It is our responsibility to save the environment for our next generations.

Second, Environment is not only a matter of effortless conservation rather it is one of active pursuit. For the development process though many human activities are destructive consequences for the nature, but people have the power to enhance the environment in which they live. For instance, large number of female education and employment can help to decrease fertility rates which can able to abate the pressure on nature and global warming. Similarly, the expansion of school education and its quality improvement, communication and active and better informed media can make us more conscious about the need of environment protection. In this connection Sen states,

Seeing development in terms of increasing the effective freedom of human beings brings the constructive agency of people engaged in

environment friendly activities directly within the domain of developmental achievements.⁹⁷

According to Sen, development is primarily an empowerment system and instead of destructs the environment, people must use this power to enrich and conserve the environment. Therefore, we do not only think to protect the environment in terms of preserving pre-existing natural condition even it includes the human creations which are a part of environment.

Sen thinks that, if we see people only in terms of their requirement then it presents a meagre view of humanity. If the importance of human lives only not lies in the fulfilment of their requirement or living standard, but in the freedom that they experience, then it is quite possible to reformulate the sustainable development with it. People does not just thinks only sustaining the fulfilment of their needs, even they thinks to sustaining their freedom and tries to extending it, as next generation are able to get the substantive freedom and capabilities without any compromises.

To evaluate the advantages of human being, income or wealth is an insufficient process. To clarify this, Aristotle in his '*Nicomachean Ethics*' states that,

Wealth is evidently not the good we are seeking; for it is merely useful and for the sake of something else.⁹⁸

⁹⁷. Op.cit., p-249.

⁹⁸. Op.cit., p-253.

Suppose, a person possess huge wealth, but he suffers from severe disability. Now, through this it cannot be said that this person has more advantaged than his able-bodied neighbour as because he has larger income or wealth. Indeed, a rich and disabled person may be faces many restraints that a poor and physically-able person may not face. So, in case of judging the advantages of different persons we have to look at the overall capabilities of them. Therefore, instead of resource- centred concentration it is important to using the capability approach in judging the advantages of the different persons.

Amartya Sen claims that, in understanding of deprivation in the world it is often ignored the importance of disability and this may be an important argument that the capability approach has been paying more attention. In this world, physically or mentally disabled people are not only deprived even they are the most neglected persons among human being.

It is important to understand the moral and political needs of disabled persons as it is an extensive and weaken feature of humanity. If society is determined to help the disabled persons and make a well- planned policy then it is possible to overcome from many tragic consequences of disabilities. Policies which are deal with disability is too extensive and it has two main target--- amelioration of the effect of handicap and prevents the growth of disabilities. It is very much imperious to realize that many disabilities can be obviated and most can be made by decrease the condition of disability as well as to reduce the growth of disabilities.

According to Sen, only a fairly moderate proportion of disabled people are affected for their condition at the conception or at the time of birth. For example, lack of nutrition of a mother and undernourishment at the stage of childhood can push the children towards sickness or disability. Infective disease or disease from unclean water may bring blindness. Many disabilities are come from polio, AIDS, measles as well as injuries at the time of work or road accidents. There is another big problem that is landmine, which is dispersed across unstable territories of the world and that can kill a child or affect on his body parts. So, against disability social interference includes the alleviation and management for the prevention of diseases. Instead of search for a perfectly just society it is most important to give preference to removal of manifest injustice which is happens in front of the people. So, in the exertion of advancing justice, mitigation and prevention of disability can be an important issue.

Equality is not only the leading revolutionary demands in eighteen century, even it's get an extraordinary importance in post-enlightenment world. Sen holds, in every normative theory of social justice equality received a great support. In modern time everyone demands equality in favour of some respect and that is particularly important in any theory of justice. Theories of justice focus on equal income, treatment, rights, liberty or utilities and so on. Though they are opposing with each other, but still both these have common feature in case of demands equality of something. According to Sen,

In each theory, equality *is* sought in some 'space' (that is, in terms of some variables related to respective persons), a space that is seen as having a central role in that theory.⁹⁹

⁹⁹. Sen, A., *The Idea of Justice*, p-292.

Sen asserts, rather than interests to discuss on whether we need equality in any space, it is very important to discuss about the critical question that ‘equality for what?’ It does not mean that he wants to ignore the first question (i.e.—whether we need equality?).

Sen thinks, for impartiality and the related demands of objectivity we claim that, everyone should get equal treatment. Of course, this could not be a free-standing answer, since admissible argument in favour of impartiality and objectivity should be scrutinized. This kind of scrutiny will ultimately show that why previous prominent theories of justice at some basic level in some way accept to treat individuals as equal.

Equality is important and capability is a key feature of human life, then it is not right to think that, we should demand equality of capability. Often we combine significance to equality of capability, but it does not mean that we necessarily demand equality of capability even it conflicts with other weighty considerations.

In context of capability, Sen emphasises only on freedom that related to substantive advantages. Capability is consider for the assessment of opportunity aspect of freedom, but it does not deal with the process aspect of freedom. In fact, capability is nothing but a tool which reasonably assessed one’s advantages and disadvantages.

Sen asserts, a theory of justice need not only concerned with the equality, there are many values with which justice may deal and equality is not only one subject with which idea of capability is useful. Indeed, liberty is useful in such aspect, like, income or other primary goods. But the importance of liberty not only lies on these aspects,

since at the very basic level it touches human lives. Liberty demands that everyone should respect each one's personal concern which they tend to have.

According to Sen, public reasoning has played the central role in understanding of justice. This acceptance takes people towards a connection between discussion of democracy and idea of justice. In contemporary political philosophy, democracy is best known as 'government by discussion' and it gets massive support. In older and more formal perspective democracy is characterized in terms of government by discussion. But in contemporary political philosophy, democracy does not only focus on demands of *public balloting* rather it uses in a wider sense what Rawls calls 'the exercise of public reason'. In fact, a large portion of understanding of democracy has been brought from the works of Rawls and Habermas.

In his *Theory of Justice*, Rawls puts this focus upfront: 'The definitive idea for deliberative democracy is the idea of deliberation itself.'¹⁰⁰

When people get deliberative then they can easily be able to reciprocate their views with each other and debate on public political questions by their supporting arguments. But Rawls himself has noted that, in many aspects Habermas's deals with the public reasoning in a broader sense than Rawls. In regards of many approaches to democracy Habermas uses a more direct procedural form in his interpretation of democracy. In explicit the broad reach of public reasoning and in political discourse about 'instrumental questions of power and coercion' and 'moral questions of justice'

¹⁰⁰. Sen, A., *The Idea of Justice*, p-324.

Habermas gives a truly definitive contribution. He thinks that, Rawls's gives excessive priority of liberal rights degrade the democratic system to reach an inferior position.

Sen was very much aware of these existing different views about the role of public reasoning, but he does not give too much important to these. For him what is more important is that, the central issues of extensive perception of democracy are interaction, dialogue and political participation. In democracy, the crucial role of public reasoning makes an intimate connection with justice. If demands of justice only assessed with the help of public reasoning and public reasoning is necessarily concerned with the practice of democracy, then there must be a close relation between justice and democracy. However, nowadays political philosophy widely accepted the democracy in terms of 'government by discussion'.

Supporters of democracy assert that, democracy itself uplift development and enhancement of social welfare. Though they see democracy and development as tended to good consequence, but they hold them as two separate independent goals. On the other hand, critics of democracy through their diagnosis noticed that, there are serious problem between these two. They raise their question by saying that, Make up your mind and ask yourself what you want: democracy or development? This question comes from the experience of East Asian Countries. Among these countries several countries have achieved an immense economical success through 1970 to 1980 and even later and this happen without following democracy. So, through this kind of experience a general theory has been present that democracy hinders development and authoritarian regimes are conducive for development.

Amartya Sen deals with these types of question and considers that, we have to focus on what can be called development and how we explain democracy--- particularly in respect of voting and public reasoning. In the assessment of development it is necessary to consider how people are living their life and how much they enjoyed their real freedom. Though GNP or personal incomes or industrialization are important for a comfortable life but by these inanimate objects of convenience it is not right to judge development. It must be the central idea of development that, what changes is come through these objects in human life and their freedom.

If people understand development in a broader sense, then they focus on human lives, which is core aspect of development. Then it would be clear that, we must see the internal connection between democracy and development rather than only their external relation.

Through the comparison among various countries it can not prove that democracy is inimical to economic growth. Since, India as a democratic country whose economic growth is much more slow than despotic countries. But from 1980 India's economic growth has begun and after 1990 it was continue at a rapid rate. So, today it is hard to say that, India's economic growth is slow under the democratic governance. Amartya Sen believes that, instead of ruthless political system in a state supportive friendly economic climate is helped to increase the economic growth or overall development of the country.

Sen believes that, for advancement of public reasoning it is important to support a free and independent press. An effective and uncontrolled media must be needed for many different reasons.

(i) Basically, freedom of press and free speech has a direct contribution on quality of human lives. People have many reasons to communicate with each other and want to better understand the world where they live. In this respect, to improve the capability of people freedom of media plays a crucial role. If a country is very rich in terms of gross national product but there is no freedom for media and subdue people's efficiency to communicate with each other then it directly alleviate the quality of human life of this country.

(ii) Press has played a major informational role by spreading different kinds of knowledge and allowing critical scrutiny in the world. It does not only present a particular type of news, but informed people about what is going on everywhere.

(iii) Freedom of media has played a protective role by raising their voice for the neglected and disadvantaged people which can give human security. In case of national calamity (e.g.—famine or other disaster) though does not affect rulers of the country but it's bring huge misery for common people. In this case ruler has faces criticism of media. And for the fear to defeat in election rulers have to take strong initiative to avert such crisis.

(iv) In facilitating public reasoning media have played many well-functional roles.

Without discussing with many people it is not possible to assessment of justice,

it is not possible by solitary exercise. A free, efficient, energetic media can very much help to do this discursive process. So, Sen claims that, media is important not only for democracy but in general for enhance the process of justice. Therefore, 'discussion less justice' can be enclosing people's process of thinking.

Sen turns his attention towards one of the most complicated issues that democracy has to deal. Democracy has established on the basis of majority rule and it frequently seen completely in terms of balloting. But in the broad sense if democracy treated in terms of public reasoning then people see that democracy includes balloting but recognizes minority rights without ignoring majority votes.

The confliction between respecting majority rule and secure minority rights may be begun when majority group brutally suppress minority right. So, for the smooth functioning of democratic system it is most important that it should deal with tolerate values. This can help democracy to restraint the communal violence. Sen believes, the effect of communal demagoguery can be overcome only through the help of spacious values. Here an energetic and impartial media can play an important role.

According to Sen, success of democracy does not only depend on making a perfect institutional structure even it depend on people actual behaviour patterns with each other, their activities as well as their working of political and social communications. He asserts, through these empirical experiences it strongly acceptable that, in pursuit of justice *nyaya* and *niti* both should be include.

Sen claims, the necessity of comparison is not avoidable where practical issues are related with the debate of justice. People do not abstain from comparison still they are not able to ascertain *perfectly just*. For example, such kind of social policies may be introduced which are important in removing rampant illiteracy or eliminate widespread hunger. It can be approbated by a reasoning agreement that it would be helped to progress of justice. If the reasoning is right here, then the approach of justice can be wholly acceptable in theory and practical field, even though it does not able to recognize the demands of perfectly just societies or just institutions.

Justice is very momentous concept and it is an important subject-matter for human being in the past and will continue in future. Reasoning and critical scrutiny can extend the scope of justice and sharpen this idea. But, yet it is not right to expect that, every decisional problem for which theory of justice is relevant, since all these are not resolved through reasoned scrutiny. Amartya Sen suggests, rather ignore the reasoning people should go as far as they can reasonably go further.

According to Sen, public reasoning about justice should go beyond boundaries of a region or state. There are two main grounds for this requirement---(i) for sake of other people's (i.e.-other countries people or people belongs from other culture) interest avoiding partiality and being fair to everyone and (ii) for sake of enrich their own investigation of relevant principle people should avoid parochialism of values and acknowledges other people's perspectives.

It is easy enough to admire the first ground in connection with inter-dependence of interests in the world where we live. There are many instances for this inter-dependence. For example, in 2008-2019 when America faces economic crisis, for overcome from this situation they take some strategy about economic field that is

naturally effect on those countries which are financially related with America. Further, AIDS and various types of epidemic diseases have spread from one country to other country. Curable medicine for these diseases produced in some part of the world and sent these to the other parts of country that are necessary for the lives and freedom of people. Similarly, injustice of anywhere impact on other countries people. Therefore, Sen upholds, every countries interest are inter-dependence with other countries and the multi-dimensional development or diverse interest of a country is depend on its global relation of other countries. If any country ignores this then it confine in a narrower boundaries.

In addition of global features of inter-dependent interest there is another ground-- ignore the trap of parochialism which is also important for demands of impartiality. In this connection Sen says that---

If the discussion of the demands of justice is confined to a particular locality---a country or even a larger region---there is a possible danger....¹⁰¹

Give importance on distinct as well as contrary analyses and arguments which are come from different parts of the world is a participatory process. It has a strong connection with the working period of democracy through public reasoning. These two are not definitely the same thing. Democracy is connected with the political assessment that leading people in the way towards ‘government by discussion’. Whereas through giving attention towards distant perspectives people can able to relinquish self-centredness and parochial attitude, that is mainly induced by demands of objectivity. Though these two are different but they have some common features and according an

¹⁰¹ . Sen, A., *The Idea of Justice*, p-403.

interpretation demand of democracy may be seen as a way for enhancing the objectivity of political system. In this context, it can be said that, it has (i.e.-distant perspective or reasoning) significant role in demands of global justice.

According to Sen, if people understand democracy then it is quite possible to practice of global democracy, voices that can make changes come from different sources---global institutions, formal discussions or interactions or feeling exchanges. Though this is not enough for the purpose of global reasoning but this discussions or arguments have some effectiveness. This effectiveness can be increases by the support of those institutions (e.g.-United Nations and associated institutions with it, NGO's, media and active citizen's organizations) that help to exchange the information and enhance opportunities for discussions across the world.

The global relations not only depend on domestic policies even it include the role of different types of international social arrangements. Global health initiatives, facilities for technological dissemination, patent laws, trade contract, international educational provision, environmental and ecological monitoring, and treatment of accumulated debts. Preventing of rivalry and local wars etc. are discussion matters of the international social system. These all are very important discussable issues which are very effective subjects for global dialogue and all criticisms about these subjects are also significant for this dialogue.

Sen believes, through open discussion, news commentary, active public movement people can pursue the global democracy and try to strengthening this functioning participatory procedure that is very much important for pursuit of global justice.

❖ **5.2 Robert Nozick's Approach towards Justice:** After throwing light on Rawls's theory of justice now we engage our attention on Robert Nozick's doctrine of justice. Rawls's noble work on justice resurrected the fields of political philosophy in the United States as well as other countries. Nozick is a most influential political philosopher and a famous libertarian (colleague of Rawls in Harvard) who first criticizes Rawls's liberal theory of justice. He establishes his theory in response to Rawls's theory of justice. Rawls's theory was based on equality and liberty. Though both are primarily worked for the individual liberty, but, Nozick flourishes his idea of justice that is based on right. He is opposed to Rawls in context of compromising with individual liberty in order to ameliorate socio-economic equality.

Nozick further argues that, instead of giving priority on individuals Rawls invoked a group in his original position. Nozick reveals that, original position only allow one to figure out the outcomes of distribution but not allow to think about how it comes? Moreover, Rawls's concept of redistribution what Nozick called it as 'patterned' principle or the theory that interfere in individual's liberty. On contrary of Rawls, he suggests, distribution should be done in accordance with the individual's intelligence. Though both are advocated two different theories of justice but it does not mean that, Nozick was critical on Rawls's justice in any form. Rather he has showered immense admiration on Rawls's theory.

Nozick believes that, the only mode that can able to establish a just society is nothing but a "minimal state". Many liberal thinkers hold that, the greater state performs greater functions and often fails to ensure the rights of individuals. But minimal state performs minimum functions so it can protect the rights and still it has ample power to enter into the territory of individual's rights. In spite of this position,

minimal state is often called as most extensive state. Such of this kind of state is justified as it has extreme powerful instrument to achieve distributive justice. It is the only duty of a state to ensure that, no one is deprived from justice and state has the power to take necessary action to reach of this goal.

Nozick begins with seek to justify minimal state. He does not support welfare policies that assigned by the state. The minimal state demonstrated as a night-watchman which functions is to protect the absolute right of individual's property which is rightfully acquired or transferred and protect these from theft, fraud, force, enforcement of contracts and so on. In short, as a night-watchman, state only work as an enforcer against aggressive activities to ensure the entitlement of property and state does not interference in the rights of people. It has no role to redistribute the property.

He advocates two requisite elements for a state: (i) apply the power of monopoly in a given region and (ii) apply the regulation for protection of rights in its own geographical periphery He hypothetically argues that, in minimal state when any sorts of confliction arise and to manage this situation law of enforcement is necessary then in order to protect them and cultivate their right to reformation people may form "mutual protection associations".

- **5.2.1 Entitlement Theory:** It has been mentioned that, Nozick's theory of justice is based on rights and it arises from the concept of entitlement. In a way, rights designated as entitlement. One has claim or right to anything, implies that, he or she is entitled to possess it. Nozick uses the idea of justice in terms of distribution of duties, rights, amenities or privileges then justice can suitably be illustrated as "***entitlement theory of justice***".

Nozick is unwilling to give importance on Rawls's distributive justice, as it does not give an appropriate idea about justice. To Nozick, the term "distributive justice" actually is not a neutral one. By hearing this term most of the people think that, some criterion or mechanism make something possible to supply among the principle. But in this process to distribute something among the people some error may have crept in.

As an argument against traditional distributional concepts, Nozick placed his entitlement theory of justice. He claims that determination of just or unjust distribution is wholly depending on how it came about. Rawls made his distributive justice with the help of difference principle that is completely depends on the "pattern" of distribution. But due to some shortcomings Nozick does not accept this patterned distribution. To overcome this problem he propounded entitlement theory of justice. Primarily, it deals with right to property and right to self-ownership of people.

Nozick holds that, people have right to keep their own property in their own possession without interfering other people's rights, reaching harm on them or fraud with them. Natural resources of the world are all up for take possession of. These are the property of everyone who takes them as much as possible. He illustrates this conception of property rights or the subject of justice in holdings with three different principles of justice. These are:

(a) Principle of justice in acquisition: These principle deals with the original acquisition of holdings or the possession of upheld things. It includes the facts that, how people first come to possess the unowned and natural property, what kinds of assets can be held and so forth.

According to principle of justice and law, when an individual acquired a holding then he or she is entitled to that holding. In other words, if a person acquired a property

followed by legal procedure and justifiable way then he has the authority of that property and it is one sort of justice.

(b) Principle of justice in transfer: This principle concerns, how an individual can acquire a holding through the transfer from one person to another person. If an individual acquired a holding that is followed by justice or legal-based transfer then it can reasonably be called that, he is the owner of that holding. The means of transfer take place from one person to another person. This means of transfer has different forms; such as, gifts, voluntary exchange or any other type of voluntary transfer.

(c) Principle of rectification of injustice: It concerns with those holdings that are unjustly transferred or obtained; such as, how much compensations are given to the victim, how to handle with the past injustices or infringement made by the Government etc. Over the world, not all of the acquisitions or transfers are followed by legal or justifiable way. There are such cases of acquisitions that are possessed by illegal procedure. Naturally, this sort of injustice or illegal activities can lead to another sort of holdings. To correct such illegal activities some rectification must be needed. So, Nozick introduces the “rectification of injustice in holding”.

Nozick states that, if world is completely just where any kinds of injustice does not happen then there only required the first two principles. Thus, his entitlement theory as well as principle of distributive justice connotes that,

... a distribution is just if everyone is entitled to the holdings they possess under the distribution.¹⁰²

¹⁰² . Nozick, R., *Anarchy, State and Utopia*, p-151.

But everyone does not obey these rules. There are few people who infringed these rules by stealing something from others or cheat them or enthrall them or seizing their assets and obstruct them to live a comfortable life what they want. So, in that case to amend these injustices the “principle of rectification of injustice” takes into the position.

When these three holdings are agglomerated under one head then that produced to a tangible form of theory of justice. It can be better for state in Nozick own words. He narrates –

The general outlines of the theory of justice in holdings are that the holding of a person are just if he is entitled to them by the principles of justice in acquisition and transfer, or by the principle of rectification of injustice...¹⁰³

Here a question may arise: in case of holdings if injustice has been done with the people then how do they come to know about this injustice? To answer this question Nozick elucidates that, from different sources of information or the records of history, people come to know about the injustices that have been happen with them and to solve this they move for the rectification of these wrongness activities. If rectification does not happen then no one can expect that justice will prevail.

- **5.2.2 Historical Principle:** Nozick has considered two principles --- historical and end-result principle for illuminating a better formulation of theory of

¹⁰³ . Op.cit., p-153.

justice. He has stated that, from the concept of distribution the notion of entitlement has been emerged. But the problem is how to identify that the process of distribution is just and if it does not fairly distributed then there cannot be justice?

So, in order to solve this problem, he has used the historical principle. It conceives that, justness or unjustness of a distribution is ascertained by whether this distribution is historical or not. Historical principle implies whether a distribution is fairly done or not depends upon how it came into existence. Historical theory does not admit any specific pattern or any specific internal economic relation of distribution. On what extent a distribution succeed to fulfil the need of justice that will display the past records. On this ground Nozick defines,

Historical principles of justice hold that past circumstances or actions of people can create differential entitlements or differential deserts to things. ¹⁰⁴

The distributive process or any other scheme can be corrected or eradicated if it is imperfect or unjust. In this method distributive system moves from one step to another step.

A clear indication of evolution of concept of justice lies on the notion of historical principle. There are occurred a successive progression of justice and this is primarily happen due to the material conditions of changing society that impact on justice.

¹⁰⁴. Op.cit., p-155.

- **5.2.3 The End-Result Principle:** The end-result principle famously known as *current time-slice principles* of justice. It clarifies how rights, duties, things and benefits are allocated and as the consequence of allocation one has received what is to be determined. Here we only looks for the consequences of distribution but does not find distribution itself.

If *current time-slice* is suitable then it can be worth to say that justice will be the outcome of distribution. Nozick expresses that,

According to current time-slice principle, all that need to be looked at, in judging the justice of a distribution, is who ends up with what; in comparing any two distributions one need look only at the matrix presenting the distributions.¹⁰⁵

Here two significant points is to be notable --- one is, distribution explicitly state that who is getting what and another point is --- this is possible only through comparison.

Nozick pretends that the appropriate nature of justice can be only known by end result principles. The process of distribution can be changed if the procedure is imperfect and it cannot ensure the justice for the people. He argues that, this is the most effective process of constructing the subject of justice. But in this sense most of the person partially agrees with Nozick, as there are other factors that are also to be considered.

Nozick states that, the socialist concept of labours' share in the profit of the industry is based upon the historical principles. They demand that, they have right on

¹⁰⁵. Op.cit., p-154.

the major share in the profit which has produced by the company, as this growth is possible for their hard work and they have earned it. So, a distribution is unjust if the workers do not get the share of the profit what they are entitled to. The workers made this conclusion on the basis of past history. They have noticed that the owners of the companies have ravened the whole profit by perverse means.

In this context Nozick argues that,

This socialist rightly, in my view, holds onto the notions of earning, producing, entitlement, desert, and so forth, and he rejects current time-slice principles that look only to the structure of the resulting set of holdings.¹⁰⁶

From the above discussion about two principles (i.e., historical and end-result principles) it can form that for a substantial idea of justice it is important to stress on entitlement theory. If there are any unethical activities in acquisition or transfer of holding that should be rectified, otherwise the justness of allocation of entitlement will remains incomplete.

- **5.2.4 Patterned Principle:** After discussing about historical and current time-slice principle Nozick has presented a new principle which was called as pattern principle. The entitlement principles of justice in holdings which have outlined are nothing but the historical principles of justice. To comprehend their exact nature, it is necessary to distinct them from another sub-class of the historical principles. For instance, the principle of distribution has made in accordance with moral merit. This principle holds that, the total shares of distribution is vary with moral merit of the

¹⁰⁶. Op.cit., p-155.

persons; no one get a greater share than anyone whose moral merit is greater than him or her. Nozick considers that,

Let us call a principle of distribution *patterned* if it specifies that a distribution is to vary along with some natural dimension, weighted sum of natural dimensions, or lexicographic ordering of natural dimensions.¹⁰⁷

Distribution of rights or anything else should be managed by some criteria, such as, usefulness to society, moral merit or weighted sum of moral merit etc. It signifies that, on the basis of merit, deserve, usefulness to society or natural dimension the distribution will be made. To Nozick entitlement theory does not fall into this class of patterned principle.

According to patterned principle, if one occupies greater convenience or moral merit then naturally he can demand a higher shares or greater reward. And if he deprived from this logical demand then it will be treated as injustice. Thus, if a distribution made on the basis of patterned principle then it is called as patterned distribution.

Nozick discloses that, the complete order of justice does not depend on equal liberty or any other principle stated by Rawls rather it depend on pattern and patterned principle that connects with different components, like, usefulness to society, moral merit etc. By recount all these Nozick wants to set up a new theory.

Nozick was completely aware of the defaults of patterned principle of justice, some of them are as:

¹⁰⁷. Op.cit., p-156.

(i) Patterned principle only emphasis on the patterned way for distributing property and rights, but it does not concern with the entitlement principles of holding. Nozick firmly believes that, justice can be achieved only through the reinforcement of this principle otherwise its incompetence fails to construct justice.

(ii) According to Nozick, receiving and giving of holdings or property combined construct the framework of justice. But patterned principle overlooks the giving aspect and only stress on receiving of property. Hence, the patterned principle of distributive justice confined only in a theory of recipient justice.

(iii) There is a confliction between end-state principle and patterned principle. As because patterned principle only prefers that an individual should be rewarded in accordance with their deserts, but historical principles emphasis on past actions of the individuals.

Nozick clearly admit that, his theory of justice is a historical un-patterned theory. In his entitlement theory, the distribution of property holding of an individual is just if the person fairly acquired it. To him, only through the help of rectification principle these past injustices or unfair acquisitions are to be corrected.

- **5.2.5 Locke's Theory of Acquisition:** Nozick's theory of justice which has been sketched above is a theory of entitlement and since it is also known as theory acquisition or holding of property. Without the reference of Locke any theory of acquisition does not complete. In his doctrine of social contract theory, he dealt with the notion of property. He enunciates, in a society, who is first lay his hand on a part of nature and with his own labour he made it into a useable things then it became his own

property. This idea lies on theory of acquisition. Thus, acquisition comes from the intention of people where they utilize something for their personal care what will be fulfilling their requirements.

A question may arise here ---- does everyone get the advantage to acquire or possess the property through his labour or utilization of a part of nature? This question emerges from the fact that, if each and every individual follows same method then finally the problem of shortage of property may take place, that means everyone do not get any chance or opportunity to possess the property. To reply this question Locke holds that, behind the acquisition of property there the labour of a person works as prime factor. He firmly believed that, there would be sufficient things in nature and no one would be deprived from holding this property. The nature has provided as well as left enough goods that one has mixed his labour with these and joined to it something that in his own and thereby he can make his property.

In this way Locke place the notion of acquisition in his social contract theory and concept of property. This vindicates that, even after the continuation of acquisition procedure there will remain sufficient portions of state of nature for the acquisition of others. In respect of acquisition of property this procedure will not affect on the rights and position of anyone in this context a complicated problem will arises, if each and everyone freely proceed to acquire property then a time will be come when there will be nothing left for others that is not enough in respect of justice.

But Locke in his book '*The Second Treatise of Government*' quite concerned about this matter and clearly states that, anyone will not be permissible to gain more than his requirement.

A theory of appropriation incorporating this Lockean proviso will handle correctly the cases (objections to the theory lacking the proviso) where someone appropriates the total supply of something necessary for life.¹⁰⁸

Whenever one proceeds to possess the property he must obey Lockean proviso, otherwise it will go against justice. To Locke, one may not possess the only water hole in a desert and he cannot charge for that nor may he charge what he wants. But in Nozick's theory this Lockean proviso would not restrain anyone who finds out a remedy for a deadly disease and charging the amount whatever he wants.

- **5.2.6 Criticism:** Apparently, Nozick's theory of justice is impressive and useful theory, but from above analysis it is not so as it has been seen. Many critics have raised various objections against it. These are as follows:

(i) Nozick lays too much importance on distributive prospect of justice. He has established his entitlement theory with the help of entitlement of holding in form of acquisition, transfer or rectification of injustice. These are the process of distribution but what about the production? Production and distribution are both inter-connected with each other. But Nozick ignores this aspect of production that will be treated as unjust and due to neglect this aspect his theory become an incomplete theory.

(ii) He wants to build a minimal state that has played a minimum role in any society. He describes the state as a night watchman. But he does not clear the exact role

¹⁰⁸. Nozick, R., *Anarchy, State and Utopia*, Pp-178-179.

of the state in establishing justice. Since, Nozick's theory falls into the category of distributive justice, by the help of its expanded appliance one must assure the precise distribution of holding as well as entitlement to holding. But on the way of acquisition or transfer or rectification of previous unjust activities if any legal or other kinds of problem arise then who will take the responsibility to solve or rectify these problems? Nozick, in his theory does not solve these problems or he does not give any explanation about these matters.

(iii) Nozick believes that, people will strictly obey the Lockean proviso, there was adequate property which will be left for the use of others and everyone get the opportunity to holding the property in accordance with their needs. This connotes too much trust on the users of property or rationality of holders. But we cannot say that, all the property owners will avert themselves from acquiring excessive property which is beyond their needs.

(iv) Nozick's idea of free market can lead to oppression and exploitation. Absolute property rights creates an environment of free market, if this free market does not regulated then it can lead to exploitation or extortion and rude behaviour towards others. One may argue that the workers needed a maximum wage but if a company is pay less amount to the poor workers---is it legal to do? In accordance with Nozick's perception, workers do not deserve to more money than companies will pay them. As a result of complete free market where the owners of the companies will profit huge amount of money but many labours work in a horrible condition and they are forced to live in a distress condition without any medical insurance or educational and others opportunities.

(v) He treated the state as night watchman. But to uphold the property rights some coercion and enforcement by Government is necessary. And to make property rights in a primary position Government must includes sacrificing some liberty.

- **5.2.7 Conclusion:** As far as it can see that, Nozick's theory of justice is standing on three major principles. He claims that, in order to deserve something, everyone must be entitled to it according to these three principles. But, he does not give any explanation about what these principles actually consist of. In spite of giving an original principle of justice in acquisition he go through the Locke's theory of property and it automatically brings the all deficiencies of Lockean theory of property in his own theory of justice. It is specifically important as because if principle of theory in acquisition faces defaults then the whole entitlement theory will be degenerates. Because by the help of this principle Nozick conduct his different kinds of entitlement to holdings. Even he fully overlook the principle of justice in transfer, as he does not states how one can understand when the transfer of holdings from one person to another person has been done in accordance with justice? People are free to transmit their holdings to other but the entitlement theory does not answer the question of how people can know this transfer of holdings is just? The only principle which depend on the other two principles in order to acquire any meaning is sufficiently explained, that is rectification principle. How far we able to rectify the unjust activities? Which parameter do we apply to measure the quantity of what to rectify of what happened decades back. If these injustices are beneficial for the state then do we call it an unjust acquisition? It has been seen that, Nozick theory is not wholly problematic and it is useful in fiscal reparation and some effective action.

From the overall analysis of entitlement theory it can be observed that, it is an incomplete principle of law that has been defined structure but does not have real meaning or actual legal disposition inside the structure.

❖ **5.3 Martha Nussbaum's Doctrine of Justice:** The doctrine of social justice should be discrete. At this present time world has been going through a major challenge that is how to achieve social justice? Many political theorists were struggling with certain issues which are coming from it. However, over the centuries history shows us that concept of social justice itself suffers from many changes and there has no specific definition of 'justice' that is relevant in the contemporary context.

Going beyond from subsisting outskirts of social justice Nussbaum wants to make some theoretical concepts that will be helpful to respond on those real dilemmas that society is facing in recent time. She closely explores the classical social contract theory which is extensively adopted to social justice in the western tradition. She laid emphasis on John Rawls's theory of justice whose work expanded the theory to a new philosophical depth and complicity. She is moving towards a fresh investigation and perceived that within the social contract theory and Rawls's work there is an implicit limitation--- it is premised on the notion of a contract for reciprocal benefit among presumptive equals. She elucidates that, it is incompetent to address the questions of social justice among disparate parties. In developing a theory of social justice founded on 'capabilities approach', she firstly wants to analyse the three unsolved social issues which are not resolved by previous political philosophers. She urges people to think more expressly about the objectives of

political cooperation and nature of political principles and more importantly look for a greater concept of justice for all.

There was a time when there has no law, courts, sovereign political government, property rights or any contract. In that time, human being lives in a chaos situation and life was not so easy. To overcome this distressed condition people make a contract with each other where they agree not to use force and power to possess any other's property in alternation of peace, security and hope for reciprocal benefits.

- **5.3.1 Three Unsolved Problems:** Nussbaum reveals that, at this present period there are three problems of social justice that remains unsolved and neglected by the previous theorist. These are:

- **(i) Impairment and Disability:** Nussbaum argues that, classical theorists of social justice assumed that the contracting members are those men who have equal capacity and equality capable for productive economic activity. Thus the theorist ignores elderly people, women and children as they are treated as non-productive members of society. These attitudes prevailed in the 17th and 18th centuries and after that contemporary contract theory come into effect.

Social contract theories do not include those persons who are physically and mentally disabled in the group for whom basic political principles are approved.

Modern society, even in recent time such people were excluded and stigmatized from society and no political movements are being framed to include

them. In particular, it is assumed that, severe mental disabled people are not educated and they are hidden away from institutions and left them to die from negligence. In short, they were never treated as a member of public reign. So, it is obvious that the classical social contract theorist does not consider these mental impaired people as the participants in political principle of choice in an initial and foundational stage.

In this context, Nussbaum believes that, there are many people with disabilities and impairments who are completely able to take part in political choice. In some aspects they have such contribution with their potentialities. But the social contract theorists totally ignore this and it is a major defect from the point of view of justice. These impaired persons are not treated as fully equal in respect of other citizens, even when the basic principles are chosen their voices remain unheard. She thinks, there is a big reason why they are not included in the choice of basic political principle or any design of social institutions. So, this ignorance towards this people plays a damaging role for social contract theory. She asserts that, the tradition of social contract conflates with two questions:

“For whom are the society’s basic principles designed?” and “by whom are society’s basic principles designed?” It may be asserted that the contracting parties are one and same who will live together and by the help of chosen principle they are regulated. Therefore, it can be assumed that, the contract theorists do not include the disabled and impaired people in the group of choosers, that means they are not even included in the group for whom principle are chosen. She argues, today in every civilized society when matter of justice for disabled and impaired people is a major agenda, the omission of these people from taking part in basic political choice creates such problems.

➤ (ii) *Nationality*: There comes the role of nationality or place of birth that affect on people's basic life destiny. In this interdependent world it is necessary to figure out the problems of justice that arises from disparities between poor and rich nations that impact on their citizen's life chances. But social contract design to make a single society, which is not inter-dependent on any other society and it is supposed to be a self-sufficient society. In this context, Nussbaum claims,

How we might realize a world that is just as a whole, in which accidents of birth and national origin do not warp people's life chances pervasively and from the start.¹⁰⁹

➤ (iii) *Species Membership*: To think about global justice, people generally think to expand theories of justice geographically. In this context, they include more human beings who live in this earth's periphery. In short, it needs to expand theories of justice outside the human territory or justice should involve the interest of non-human animals. Nussbaum argues, in this field, doctrine of social contract suffers from defects. Social contract is the core image for the origin of principles of justice that made among the rational people and in account of their basic social justice there is no room for the interests of non-human creatures.

In this regard, Kant and Rawls respectively convey that, either people have no direct moral duties towards the animals or they do their duties in terms of compassion or charity rather than justice. She claims that, in their daily life people affect on nonhuman species and as a result they suffer from enormous pain. Animals

¹⁰⁹. Nussbaum, M., *Frontiers of Justice*, p-2.

are not furniture of the world; they are active living being who tries to live their lives, but often people obstruct in their way of living. So, it is one of the major problems of justice.

These three issues of justice which are raised by Nussbaum are different from each other. All these have an important common feature: these involve a serious incongruity of capacity and power among the creatures. So, she argues why the traditional contract theories cannot properly deal with this issue of incongruity? Each of the above problems identified as important and it needs separate dealing.

- **5.3.2 Rawls's unsolved problems:** John Rawls admits that, like the above problems his theory faces four difficult problems which are not easy to handle for conception of justice. These are: (i) what is owed to temporary and permanent or mental and physical disabled persons; (ii) what is owed to the nature and animals (it is noteworthy that, Rawls does not accept these as the issues of justice); (iii) justice across national boundaries and (iv) problem of protection for future generations.
- **5.3.3 Capabilities Approach:** Nussbaum argues that, Rawls's theory fails to offer any satisfactory answers to the above problems and in fact he does not treat them as the problems of basic justice. So, to deal with these problems she develops an alternative version named as "Capabilities Approach".

Nussbaum raises some powerful questions that, if the price of domestic product of a country hike every year, but its citizens deprived from health care, basic education and other amenities, then can we claim that the country truly going towards the progression? If every country still depends on traditional economic

indicator then it never realize how billions of individual manage their daily life? By raising these powerful questions Nussbaum argues that, the previous developed theories have conferred some policies that over look the most primary human needs of self-respect and dignity.

In all over the world everyone is striving for a life that is compatible with their human dignity. It can be seen that, leaders of countries mostly focus only on national economic growth, but people want a worthy and meaningful life for them. Increased GDP (Gross Domestic Product) does not always make a difference to the quality of human lives and reports of national enrichment cannot able to console those people who are marked by deprivation and inequality. These people want such theoretical approaches that can help their struggles and reject those approaches that are concealed and suppress and criticize their struggles.

On account of this, Nussbaum introduces an approach which is famously known as “capabilities approach” or “capability approach”. It has generally promoted in connection with international development policy, with concentrating on poorer nations that are striving to prosper their quality of life. She thinks that, all nations face the problems of human development, minimal justice and struggle to give a completely adequate quality of life. Many previous prominent thinkers offer such approaches that fail to ensure to give opportunities and dignity for each individual, but capabilities approach supplies insight.

At the bottom of Nussbaum’s theory of justice and human rights is nothing but Amartya Sen’s notion of substantial freedom or capabilities. Sen made this doctrine as a path of human development and addressing question of justice. Before discuss about distribution it is necessary to ascertain a dimension which comparative value is more

significant. For instance, if equal distribution is just then it has to know equal distribution of what? In connection to human development, we have to know exactly what we should try to increase.

Developers who work on such issues about human development have finally converged on a same notion that is known as capabilities approach. According to Nussbaum,

This approach holds that we should focus on... What are the people of the group or country in question actually able to do and be? ¹¹⁰

Since long time Nussbaum has been trying to make a substitute model to evaluate human development that is “Capabilities Approach”. She starts with some simple questions: What is it individual really able to do and to be? What kind of actual opportunities are available to them? Capabilities approach, until now has been expounded in these areas for human progression. However, creating capabilities create interest in everyone for human advancement which is an amazing perspicuous account of composition and practical implication of the substitute model. It exhibits the way to justice for human and non-human beings. She tries to resolve the issues that Rawls fails to deal. Some of these are:

- **(a)Non Human Animals Interest:** For the lack of rational capacity Rawls does not believe that, human being’s relation with non-human being involves into the issue of justice. To him, people have some ethical duties towards animals but not political duties. Nussbaum argues that,

¹¹⁰. Nussbaum, M., *Sex and Social Justice*, p-34.

The presence of any type of agency or striving accompanied by sentience raises questions of justice and makes it appropriate to consider the being in question subject of a political theory of justice, whether or not they are capable of understanding or assessing that theory. ¹¹¹

She further argues that, to whom justice is applicable that is more important matter. She clearly states, almost all animals are subject to justice. They have dignity, deserve support and respect from institutions and laws.

Human capabilities are the primary focus, but since human beings form relationships with nonhuman creatures, those creatures may enter into the description of the goal to be promoted, not simply as means, but as members of intrinsically valuable relationships.¹¹²

Animals and human being both were experiencing harm and pain, try to live and act and both can be wrongly thwarted. So, if injustice to human being is a matter of consideration then animals should get the same treatment. It suggests that, where justice is concerned about living individual human being then there non-human species are also the prime matter of concern. Capabilities approach does not treat animals as receptacles of pleasure or pain, it understands them as agents. This deep conceptual view helps this approach to develop a more pertinent kind of respect for animals.

¹¹¹. Nussbaum, M., *Creating Capabilities*, p-88.

¹¹². *Ibid.*, p-157.

Nussbaum admits that, all non-human species are known for a threshold point of opportunity for a life characteristic of their kind. If it means, complete prohibition on killing animals for food then it may be debated. There are some other things that should be prohibited. For instance, processed factory food industry inflict on animals, brutal practice in connection with product testing or unnecessary harm on animals or any research should be ended and we should find alternative way to do the research (e.g., through computer stimulation).

- **(b)Gender Discrimination:** Nussbaum's capabilities approach has emphasised on inequality of women. This problem is enormously of intrinsic importance. All over the world, there are many aspects where women are unequal and it is a big problem of justice. This problem creates obstacle for development of a nation, as denial of opportunity to women holds back the nation's productivity. She claims that, many alternatives approaches are inadequate to encounter with this problem of inequality of women.

Capabilities approach is not an expansive moral theory rather it is a political dogma. Though it is not a complete theory, but it specifies few fundamental conditions for a competent just society in terms of a bunch of basic entitlements of all inhabitants.

To her, capabilities approach counts people as one by one. It does not underweight the persons into families and disregard unequal distribution of powers and relation within families.

Today, among many approach preference utilitarianism is a powerful approach. It holds that before applying social policies on individual, social planners should maximize the satisfaction of preferences what they have. But as a proposed standard of what is socially valuable, capabilities approach refuse preference criterion.

Nussbaum holds that, most of the time preferences may be perverted. An abused woman or a slave may eventually realize that a moderate easeful way of living or coercive life is best that she can choose and do not prefer greater freedom.

- **5.3.4 Philosophical Influences on Capability Approach:** Though capabilities approach is a rhetoric idea, but it has a long story. Sen and Nussbaum strongly believe that the intuitive ideas what lay behind this have their origins in many diverse cultures or possibly in all cultures. Nussbaum states that,

Questions about a person's opportunities and options, what she is really in a position to do and to be, are ubiquitous in human life; they are probably part not just of every culture but of every individual life.¹¹³

Socrates has no flourished political theory but his critical thinking through dialogue with others is an important source for the development of modern capabilities approach. But ethical and political thought of Aristotle are the most important and earliest source for capabilities approach. He thinks, political planners

¹¹³. Nussbaum, M., *Creating Capabilities*, p-123.

should realize what human beings need for a prosperous life. He clearly states that, his ethical writing for prospering human life was aimed as guide for his society's future politician as they can apprehend what they are striving to earn.

For Aristotle, choice is all important thing— no action considers as virtuous in any way unless it is negotiated by individual's own selection and thought – he does not advice the politicians to fulfil people's desirable things. Instead they are targeted to produce opportunities or capabilities. Though Aristotle is not liberal thinker, but he thinks that, gratification attained without choice is not worthy for the dignity of human beings.

According to Stoics, just by virtuous action each person can acquire dignity and worth to respect. People's ability to understand ethical differences and make moral judgements are taken to be the “god within” and as such it is worthy for limitless respect. Ethical capacity is found in all types of people; such as, female and male, high-born and low-born, rich and poor, slave and free. Wherever we find this primary human capacity we ought to equally respect it.

Adam Smith rejects Stoic's notion of human invulnerability and turned to Aristotle for better understanding about worth of friends, family and many substantive condition for human development. He tries to develop Aristotle's doctrine of human being and their basic needs. For shaping the human abilities he gives stress on habit and education that play a profound character. He wants to abolish slave trade, apprentice and those laws that support monopolies and restrains lobbying by powerful financial interests as these may creates inequality. He conceived an insight for capabilities approach, that is, human abilities come in an immature form and needs to support from environment --- including assistance for

physical health and mental development and if they are developed in this way then it is worthy for human dignity.

In 19th century J.S. Mill discussed about the human capabilities. In his writing he elaborates the connection of political liberty to human self-development and exhibits how discrimination with the capacities and opportunities strike on women.

After Mill, T.H. Green widely uses the concept of human capability. He states that, to create a condition where all people can able to make an enormous range of choices with adequate safeguard from society and it is the correct means to protect human freedom. He supports the legislation as the work place safety regulation, limitation working hours, ban on child labour, free compulsory education etc.

In political or economic programme “Capability Approach” and “Capabilities Approach” are the key terms. Sen brings this approach and clarifies that, capability framework is the best area where people can comprehend the proper life quality and this approach is superior to Utilitarianism and Rawlsian approaches.

Nussbaum, instead of using ‘Capability’ she is more interested to use the plural term ‘Capabilities’ as pivotal component for people’s quality of life which is plural and qualitatively different. Rather use the term “Human Development Approach” she likes to prefer the term “Capabilities Approach” as it does not only concerned with the human being even it deals with the capabilities of non-human animals as well. For entitlement theory of justice for humans and non-human beings these approach provide an excellent ground.

Nussbaum provisionally defines the capabilities approach as an approach to theorizing the basic social justice and comparatively assess the quality of life. It holds the key question: “What is each person able to do and to be”? This approach treats each person as an end and instead of total or average well-being it gives opportunities to each person. It is immensely focussed on freedom of choice. She thinks, a good society should provide a set of opportunities or substantial freedoms to all individual which they may or may not use in action is totally depends on their choice. Her approach also deals with entrenched social justice and inequality. These are the fundamental components of capabilities approach. She proposes the approach to make a theory of basic social justice and in this process it includes others many notion: such as, the threshold, political liberalism, human dignity etc. As a theory of basic political elements her approach sets a specific list of central capabilities.

“Capabilities approach” differently developed by Nussbaum in philosophy and Amartya Sen in economics. Sen applies this approach to comparatively measure the quality of life; even he is interested in the issues of social justice. On contrary Nussbaum exploits this approach ---

To provide the philosophical underpinning for an account of core human entitlements of all nations, as a bare minimum of what respect for human dignity requires. ¹¹⁴

She further added ---

¹¹⁴. Nussbaum, M., *Frontiers of Justice*, p-70.

The best approach to this idea of a basic social minimum is provided by an approach that focuses on *human capabilities*, that is, what people are actually able to do and to be, in a way informed by an intuitive idea of a life that is worthy of the dignity of the human being.¹¹⁵

- **5.3.5 Ten Central Capabilities:** She prepares a chart of *central human capabilities* and claims that, all of these are implicit in a life worthy of human dignity.

On account of different areas of human life where people move and act, this approach poses questions to social justice --- what does a life worthy of human dignity need? She thinks, at least a suitable threshold level of ten central capabilities are required to each individual and a modest political discipline must secure these ten central capabilities for all citizens.

To Nussbaum, capabilities approach is an outcome-oriented approach and it accesses justice (partial or minimum social justice) in terms of a nation's efficiency that ensures the ten central capabilities for their citizens up to an ample threshold level. Therefore, her basic claim to social justice is --- respect those ten capabilities that are required for human dignity. These ten capabilities are:

(i) Life: Being able to live a human life to the end of a normal length. In short, a person does not dying prematurely or before one's life is so consolidated as to be not worthy living.

¹¹⁵. Op.cit., p-70.

(ii) Bodily Health: Being able to get a good health, it includes reproductive health; to have ample shelter; to be sufficiently nourished.

(iii) Bodily integrity: Being efficient to freely move from one place to another place, to be safe from violent assaults (e.g., Sexual assault, domestic ferocity); having opportunities for sexual gratification and in occurrence of reproduction having alternatives.

(iv) Senses, imagination and thought: Being able to apply the senses, imagination, thought and reason in a truly humanistic way which was cultivated by proper education. And this is connected with experiencing and conducting works from one's own choices, literacy, musical, religious etc. Being able to conduct with an individual mind in those ways which are secured with the assurance of freedom of religious exercise and freedom of express (e.g., political and artistic speech), being able to attain pleasurable experiences and refrain from pain.

(v) Emotion: Having affection to those who are surrounded by ourselves, show love and care for those who love and care for us, feel suppressed pain at their absence. This capability entails to make human association, which is very importance for their development.

(vi) Practical reason: Being able to make a conception of good and engage in critical repercussion about the planning of one's life. This capability ensures religious observance and liberty of conscience.

(vii) Other species: Being susceptible to live with the plants, animals or the world of nature.

(viii)Play: Being capable to play, laugh and enjoy the entertainment performances.

(ix)Affiliation: (a) Being able to live with other human beings, show concern for them, participate in various social interaction and able to figure out other's situation. This capability supports those institutions which comprise and bring up such kind of affiliations and protect political speech as well as freedom of assembly. (b) Having social bases of no disgrace and self-dignity; being able to equally behave as a dignified human being with others. This ensures to eradicate the discrimination of caste, race, religion, ethnicity, sex, sexual orientation, national origin.

(x)Control over one's environment: (a) **Political:** Having the right of political participation one can able to actively participate in political choices, possess the right of free speech and association. (b) **Material:** Having the right of property on equal basis with others, being able to hold property, right to equally get employment, having freedom from unreasonable query and seizure.

Though this list of ten central capabilities pertains to human life, but it provide a reasonable ground for immensely think about the non-human beings. Capabilities approach upholds a principle that treats each individual as a means to capabilities for others or for the whole.

Nussbaum interprets, capabilities approach is a partial theory of social justice. It does not mean to resolve all distributional problems rather it only specifies adequate social deficient. To her, these ten central capabilities to all individuals is an essential condition of social justice. Each capability has its own significance and all individuals should be flourished the threshold on all of the ten capabilities. However, often some capabilities may justly take priority for dispel such corrosive damages.

- **5.3.6 In Search for Global Justice:** In different ways the three unsolved problems of justice causing problems in globalising the justice (i.e., spreading justice for all those in the world who ought to be treated justly). These problems in several ways include massive incongruity of capacity and power and sometimes the moral rationality itself. An adequate account of human justice ought to enhance reciprocity and importance to impairment people (i.e., save physical and mental disable person).

A good analysis demands to identify various types of impairment, necessity and dependency that normal people have experienced and make inseparable relation between normal people and disable people. According to Nussbaum, capabilities approach can able to make an appropriate notion of complete and equal citizenship of people with mental inabilities.

She thinks, such theories fail to give any appropriate approaches for the difficulties of global justice (i.e., inequalities between privileged and unprivileged nations and between human being of any nations). To overcome these difficulties it must be appropriate to make reciprocal dependencies among citizens of different nations, ethical obligation of individual as well as nations to other nations and the role of transnational things (e.g., markets, private organisation, corporation global agreements etc.) which ensure to give basic opportunities to people for live a good life. In this context Nussbaum claims that, capabilities approach helps to determine the appropriate goal of an international politics.

She conveys that, social contract theories deny people's obligations of justice towards non-human animals. This kind of perspective can be corrected into these ways: by acknowledge the range of intelligence in non-human being and refuse the

thought that only those who can participate in the structure of social contract are completely subject to theory of justice. Capability approach is a theory which gives importance on a continuum of functioning and several types of capability that provides guidance through which people can pursue to find a better remedy to deal with those urgent issues of justice. And this guidance is far superior to contract theories and utilitarianism. Up to this point people have been using capability approach, not totally but modify it. On account of this, to properly deals with the first two issues (what Nussbaum raise as the agenda of justice) mere subtle amendments have been required for the theory which has been already developed. But there is most important to need a major development of capabilities approach for the justice of non-human animals. She worried that, these three issues which are not solved or difficult to solve by the proponents of contract theories has become a large problem in this age of human generations. So, to deal with this she asserts that,

It seems to be time to see what an examination of these problems will show us about social justice, and what an alternative theory can offer.¹¹⁶

- **5.3.7 Towards a truly Global Justice:** In search for the global justice it has been obvious to include many people and groups who were not included as completely equal subjects of justice in earlier theory(e.g., poor people, lower classes, religious members, racial minorities, ethnic, women etc.). In social contract tradition, classical liberal approaches were nicely dealt with the most parts of inequalities. But more recently a large and heterogeneous group of mental and

¹¹⁶ . Nussbaum, M., *Frontiers of Justice*, p-95.

physical and disable people, lifelong or temporary disable people claims full and equal justice. Classical social contract theories and Rawls cannot properly deal with these difficulties of justice for the impairment peoples or the related problem of care to the dependent elder people. To manage these difficulties Nussbaum recommends capabilities approach and believe that, it nicely place to give an effective way forward.

Since a long time it has been clear that for the global justice it is necessary to depart from self-sufficient nation to nation paradigm and think what justice may demand for nations in their dealings with each other. After the 20th century it has been clear that, universal and liberal justice address the conventional topics of war and peace as well as material redistribution and economic justice. Traditional doctrine of social contract cannot confront with these questions in a proper way; even Rawls's daring and attractive approach does not successfully tackle with these difficulties. So, in this stage Nussbaum claims that, capabilities approach give an effective way forward. She further argued that, through its variety of continuously moving institutional forms only this kind outcome-oriented approach can perfectly deal with the bewildering and constantly changing environment of the world.

She thinks that, a truly global justice requires to looking towards one's own nation and other nations of the world and those sentient being whose lives are compound and reciprocally intertwined with the human being. Though at the beginning utilitarian approaches bring an adequate ethical awareness, but at the end that concept is too homogenizing --- across lives and in respect to the heterogeneous elements of each life—to give a suitable theory of animal justice.

The capability approach, which begins from an ethically attuned wonder before each form animal life, offers a model that does justice to the complexity of animal lives and their strivings for flourishing.¹¹⁷

Here Nussbaum only tries to sketch what this capabilities approach might ultimately state? But on the way of complete global theory of justice a sketch is step forward.

In the era of indefensible unfairness, Nussbaum exhibits, how by following the narratives of individuals and grasping the everyday's impact of policy we can enable to live full and creative lives.

- **5.3.8 Conclusion:** We are living in a period which is subjected by national economic achievements and profitable purpose. Economic growth is a key part and an essential device for prudent public policy. Profits are mere instrumental means for human lives, but ultimately it is the people who are matter over all these objectives. For global development a good national policy set up an environment where people enable to live their complete creative lives, making a meaningful existence and develop their potentialities with their equal human dignity. In a way, the original motive of development is nothing but the *human development*; other approaches and resources are the best substitute for the development of human lives.

For all these reasons as an alternative to dominate approaches for development the capabilities approach draws an excellent outlook all over the world.

¹¹⁷. Nussbaum, M., *Frontiers of Justice*, Pp-406-407.

As an approach to basic social justice capabilities approach made a remarkable outlook within nations and between nations.

❖ **5.4 Sandel's Notion of Justice:** Justice is a detailed piece of work in political philosophy. Michael J. Sandel is one of the prominent American philosophers who analyses the concept of justice in a new dimension. He explains doctrine of justice in immediacy and lucid manner. He introduces a long list of controversial topics related with the issue of justice that focus on moral reflection. His aim is to throw light on several topics that belongs to justice, from different points of view.

Should personal freedom have its limits? Could free market be deemed as a fair one? Could it ever be supported if one kills someone? What would be the best things for anyone to do? ----such of these types of questions are annoying human minds since many years. With the help of philosophy and politics Sandel trying to deals with these questions. When we ask, is a society just is nothing but the thing that how it distributes duties and rights, power and opportunities, income and wealth, offices and honour etc. among the citizens. A just society must distribute these things in a proper way where each and everyone get his or her due. But the difficult questions arise when it asks that, what does the people due and why?

The previous political philosophers have already begun to strive with these questions. Three ways are identified to approach with the distribution of goods; such as welfare, freedom and virtue. Each of these propounds a variant way of thinking about the notion of justice.

Sandel illustrates three basic schools of thought that work behind justice. These are understood by the word “Utility” (greatest happiness for greatest number of people), “Consent” (respect to freedom and rights of individuals) and “Virtue” (through law and government promoting virtue).

He reflects on disagreements about the interpretation of maximize welfare, respect to freedom, and cultivate virtue and disagreement about what to do when these ideals confront with each others. Political philosophy fails to resolve these discrepancies, but it helps to shape our arguments and bring moral perspicuity to the alternatives what we face as democratic citizens. He explores the weaknesses and strengths of these three ways of conception about justice. In context of the idea of maximizing welfare most of the contemporary debate is how to improve the standard of living, promote advancement or increase economic growth. Why people looking to these things? The clearest response is that, people expect prosperity make them better off than they would otherwise be – as persons and as a society. In a way, prosperity contributes to the welfare of people. To expound this idea Sandel turns his attention towards utilitarianism which upholds greatest happiness for the greatest number of people or maximize welfare.

Later he goes for the theories that append justice with freedom. These theories stress on respect to individual’s rights; though most of them are differ on the matter---- which right is more important? The notion of justice implies respecting individual’s rights and their freedom and these are most familiar in contemporary politics. For example, most of the countries Bills of Rights assign certain liberties; such as, rights to religious liberty, freedom of speech etc. that are not to be violated by anyone or even the majorities. Gradually, the notion of justice upholds respecting such kind of universal human rights which extensively embraced around the world.

The approach that justice begins with freedom is a spacious school. In fact, in recent time the most discussed political argument take place between two rival camps -- -laissez-faire camp and fairness camp. The laissez-faire camp is liberal to free-market and believes that justice stands with respecting and supporting the deliberative choices of consenting adults. But the fairness camp holds an egalitarian view. They claim that, untrammelled markets are neither free nor just. They think, justice needs the policies that redress social and economic difficulties and give a fair opportunity to everyone as they can achieve success in their life.

According to Sandel, there are some theories that think justice is closely related with virtue and good life. Theories of virtue are mostly known with the cultural conservatives and religions right in contemporary politics. But the just society holds certain virtues and the conception of good life have inspired arguments and political movement across the ideological spectrum.

- **5.4.1 Refutation of Utilitarian Theory:** In regards of concept about justice there are many approaches. Sandel does not support consequentialist approach about justice. The consequentialist approach holds that, morality of an action relies on the consequences what it brings or the right thing what will produce the best result. But in many times people confronted extreme dilemmas and hesitate to make a proper decision about right action.

Sandel criticises utilitarian doctrine which is one of the form of consequentialist approach. He first discusses about utilitarian concept and attempts to criticise it in his own way.

Jeremy Bentham, a legal reformer and a moral philosopher as well as the founder of doctrine of utilitarianism. It implies the principle of maximize happiness or increase

pleasure and prevents pain or misery. According to him, all people are governed by two sovereign masters: pain and pleasure. The criterion of right and wrong action is bound by their throne.

Everyone wants to get pleasure and avoid pain – utilitarianists recognize this real fact and make it as fundamental principle of political and moral life. The principle of utility is not only for the individual even it is also applicable on the legislators. In making of laws or policies, Government should do those things what will maximize the happiness of community (i.e.-composed of sum of individuals) as a whole. He claims every moral argument should draw by maximizing happiness and there are no possible fields for denying it.

Like many other critics Sandel argues about the most explicit weakness of utilitarianism as it fails to respect individual's rights. By giving preference only about the maximize number of people, it can run roughshod over other individuals. For utilitarian, each person's preferences are counted along with everyone else. But if this logic of utilitarianism is consistently applied then it could sanction to violate the fundamental norms of courtesy and respect. He illustrates this with such cases. These are:

In ancient Rome, for entertainment of the crowd Christians are thrown into the coliseum with the lions. The Christian suffers from dolorous pain as the lion injures and raven them. For collective ecstasy or sake of amusement of viewers brutality on one person is morally acceptable from the utilitarian calculus? Is this type of torture ever justified?

There is another example which is displayed by Sandel. A short story of Ursula K. Le Guin that tells about Omelas city – a place without kings or slaves, without stock

exchange, atomic bomb and a city of happiness and public celebration. But in this city there was a basement under a beautiful building where a room existed with one locked door and without any window. A feeble-minded, malnourished and neglected child is locked in this room and lives her day in abominable misery. All people of the city know that their happiness is wholly depends on this child's wretched misery and if this child come out from the dark room and brought up into the sunlight then all delightness, prosperity or beauty of this city destroyed in an hour. Are the above conditions morally admissible? It is unjust to contravene the rights of an innocent child even for the sake of happiness of maximum number of people.

The second objection against utilitarianism is a common currency of value. Utilitarianism's Science of morality depended on measuring, aggregating and calculating happiness, without judging them it considers preferences. But all values can't be taken by a common currency of value.

To explore this objection Sandel illustrates the cost-benefit analysis. Often in decision-making Government and corporations widely used utilitarian logic in cost-benefit analysis. Cost-benefit analysis endeavours to fetch accuracy and rationality to complicated social choices by corresponding to all cost and benefits into economic terms and then comparison them.

In Czech Republic, Philip Morris owns a big tobacco company and in this country cigarette smoking is popular and socially admitted. For the rising health care costs due to smoking, Government envisages to hike tax on cigarettes. To get rid off from the raising taxes, Philip Morris commissioned a cost-benefit experiment of the impacts of smoking on the Czech natural budget. The analysis found that the Government profits more currency than it losses from smoking. Although smokers

impose higher medical expenses on the budget while they die early or alive and so save the Government unusual amounts in pensions, health care and housing for elder. In according to the research, the net profit of treasury per year is \$147million only from the cigarette tax revenue and savings from premature deaths of smokers. An anti-smoking newspaper shows that, Czech Government attached the price tag with the toe of each smoking-related death bodies. This displays a completely unacceptable matter that disregards the basic human values. Some of the critics assert that, Philip Morris smoking-related research expounds the moral idiocracy of cost-benefit study and utilitarian way of thinking is responsible for it. Viewing Lung cancer deaths as a facility for fiscal of the country display an insensitive despise for human life. Any kind of morally justifiable policy for smoking not only considers the fiscal of the country but even it thinks about the human well-being and public health. Sandel argues that, Bentham Constructed the notion of utility on a single scale and this takes us back to the question of whether all value is to be translated into pecuniary terms.

- **5.4.2 Rejection of Libertarian Approach:** Now Sandel attempts to interpret the ideals about what should do when respect of freedoms and rights of individuals often confront with each other. He illustrates this matter---

The famous magazine Forbes on 2008 discloses a list of four hundred affluent Americans, where Bill Gates III, the Microsoft founder is top of the list. In fact, in respect of other country American economy is in the top position. Economic inequality is excessive in the United States in comparison of other democratic countries. Some of the people think that, this type of inequality is unjust, so to help the poor people

Government take tax from the rich people. But some thinkers are disagreeing with such kind of activity and hold that, there is nothing wrong in economic inequality.

Here a question may arise: who is right? If justice takes as maximizing happiness, then it favours wealth redistribution. Suppose, \$1 million take from Bill Gates and distribute it among hundred indigent people by giving each of them \$10,000, then overall happiness would obviously increase. In this ground, though Gates would min the money, but from the utilitarian perspective collective utility or great happiness is derive from it. In fact, from utilitarian logic it is quite just to redistribute the wealth – transfer money as much as possible from the wealthy people to help the poor people.

But such kind of Robin Hood Scenario uncovers at least two objections --- first one is from utilitarian thinking and other from outside the utilitarian perspective.

The first objection concerns that, high tax rates on income may reduce the enthusiasm to work as well as well as investment and it will be bad effect on productivity. If economy fall down and left less to redistribution then overall level of utility might decrease. So, before collect huge amounts of tax from the rich, utilitarian should ask themselves whether doing so would lead the rich to work less and so to earn less. And eventually reducing amount of money would be great impact on economy.

The second objection argues, taking tax from rich to help the poor is unjust as it contravenes the fundamental right. Taking money from affluent without their assent even for a good cause is oppressive. It infringes their liberty to do with their own money whatever they satisfy. On these grounds, those who are opposing to redistribution are known as “libertarians”.

Libertarians prefer open markets and object to Government provisions, not for economic expansion, but for the human freedom. Their primary claim is each and every individual has a fundamental right to liberty – the right to do whatever they want with their own things and respect each other rights to do the same.

Sandel argues if libertarian theory of right is correct, then many activities of this recent time are illegal and contravene the liberty. Such as following:

(i) Libertarians object the laws that save people from striking themselves. For example, Seatbelt laws or wearing helmet during motorcycle riding laws. Without helmet during the bike riding is risky and this helmet laws may save lives and prevent subversive damages, but libertarians reject such laws that infringe the individual right to determine what risk to take. As far as, no third parties are injured or the riders are subject to paid their own medical bills and no state has right to instruct what risks they may take with their own lives.

(ii) Libertarians stick up to using the oppressive force of law to enhance the virtue or to explicit the ethical judgments of the majority. To many people prostitution may be morally impermissible, but that fails to justify the laws to restrain intending adults from in. The major portion of people does not approve homosexuality, but this type of law deprives the lesbians and gay men from the right to choose their own sex partners.

(iii) Libertarian does not abide the law that taking tax from affluent to support the needy or taxation for redistribution of wealth. Such kind of rules should not mandated by the Government. According to libertarians, redistribution taxes are one

type of enforcement, even a form of theft. The Government has no right to compel the rich people to give tax for the support of social programs or for poor people.

Sandel reflects on libertarian perspectives by interprets that, they are too much support freedom of choice that implies one has free to do with his own life or body whatever he want to do without harm others. If anyone tempted by the libertarian thought then he must see how far he would go with consider these following cases:

Selling and buying of human organs for transplantation is prohibited in many countries. In United States, one can willingly donate one of his kidneys but not to sell in free-market. On account of this, some people contends to change such kind of laws. They claim that, in every year many people die to waiting for getting kidney. They suggest, if there is a free-market for kidneys then it can easy to get the kidney and save many lives. And in need of money one can easily sell their kidneys if they want.

In accordance with libertarian notion of self-ownership---one should be free to do whatever he wants to do with his own body parts. There are few advocates who fully support the libertarian logic of selling human organs, as because they emphasize on moral importance of saving lives. They argue that, if a person donates one of his kidneys then he can manage with his another kidney. So, your body and life are your own property and you have fully right to use your body as you please.

On account of these above arguments Sandel mentions two atypical cases and asserts that in these cases how libertarian deals. These are as following:

(a) Suppose the buyer whom you want to sell your kidney is completely fit and healthy and he has no need to organ for transplant for his own or his relatives. He wants to buy kidney from you as he is a human organ dealer who sells the organs to rich clients by huge amount. In this basis, should people be permitted to sell or buy kidney

or any other human organs for this intention? If one thinks that he own himself, then he would be hardly say no. Of course, one may hate to use the body parts on this basis but he is deliberately support organ sales only for life-saving purposes. But if one accepted this view then he may defend of the free-market for selling or buying organs that would not remain support with libertarian premises. Therefore, he would accept that, people do not have the boundless property right in their own body parts.

(b) Suppose, a hard-working farmer of a village wants to do anything else to send his child in a college for higher study. For this reason, he has sold his one kidney to a wealthy person who needs kidney transplantation. A few years later, his second child approaches to get admission in college and another buyer come to him and offers a huge amount for his another kidney. Should he free to sell of his kidney (even he knows that without kidney he will not alive)? If the case rest on the notion of self-ownership then the answer is definitely yes. Some are object that, no one agrees to give up his life for money. But if people have ownership on their bodies and life then the farmer has the right to sell his second kidney by give up his life. Here it may noteworthy that, this scenario is not completely hypothetical. In 1990, a California prisoner wanted to give his second Kidney to save his daughter's life but the ethics board of the hospital does not allow him to do so.

Of course, it is possible to grant to sale the organ only for save lives, but that does not fell the seller life in an endanger situation. But such form of policy would not rest on the self-ownership principle.

- **5.4.3 Renouncement of Theory of Virtue:** Sandel explores the theory of justice on the basis of virtue, honour etc. In doing so he discusses some of political thinker's views on this regard. But here we discuss only about Aristotle's theory of justice and see how far Sandel accepts this perspective of justice.

Aristotle's political philosophy lies on two central ideas. These are- (i) Justice is teleological. The definition of right requires to think about the *telos* (the purpose, end or essential nature) of social practice in question. (ii) Justice is honorific. To thought about telos of social practice or to argue about it means nothing but the things that, which virtues it should reward and honour.

To understand Aristotle's politics and ethics we should go through the potency of these two considerations and affinity between them. Modern theories of justice try to separate their own theory from arguments of virtue, honour and moral desert. They trying to pursue principles of justice among various ends that are impartial and enable people to opt and follow their ends for themselves. But justice cannot be neutral in this way for Aristotle. He believes that, without the debates about virtue, honour or nature of good life the debate of justice is baseless.

According to him, justice is a matter of efficiency. To allocate right is to seek the telos of social organisation and gives the role to the person that are fit with them which helps them to realize their nature. Giving each individual to his own due or giving people what they deserve means giving them the honours or offices and social roles in accordance with their respective nature. But what are the suitable grounds of ability or excellence? What is a person due? These all are relying on what's being distributed. Justice comprises two factors:

Things and the persons to whom things are assigned. And in general we say that “persons who are equal should have assigned to them equal things”.¹¹⁸

Here a difficult question arises: equals in what respect? That relies on what things are going to distribute and these are relevant with the virtues. Suppose, we are distributing pianos in a school then who should get the best ones? Here Aristotle suggests that, the pianos give to the best piano players.

Justice discriminates in accordance with merit and relevant excellence. In case of piano playing, the merit means in terms of efficiency to play well. But in terms of discriminate on the basis of physical beauty, nobility of birth, wealth or chance would be unjust.

In this modern age, distributive justice concerned mainly with distribution of wealth, opportunities and income. But Aristotle understands justice in terms of honours and offices rather than money. To Aristotle, the objective of politics is to make good citizens and enrich good character. It does not form a frame of rights that is neutral among various ends.

Sandel highlights on how honorific and teleological aspects of justice go together?

He thinks, if Aristotle’s view that, making good life is the end of politics is right then it is easy to determine that, those persons who have worthy to get the highest honours and offices who exhibits their greatest civic virtue. Here he raises a question by saying that is Aristotle right on the assertion that, politics is essential for sake of good

¹¹⁸ . Sandel, M., *Justice: What’s The Right Thing to Do?* p-187.

life? – It is a controversial claim. Sandel argues, in this recent days people generally do not see politics as an important component for good life but as a necessary evil. By politics people think it, as a matter of posturing, special interests, compromises, corruption and so on.

Even idealistic uses of politics – as an instrument of social justice, as a way to make the world a better place – cast politics as a means to an end, one calling among others, not as an essential aspect of the human good. ¹¹⁹

In this context, critics raise a question, why Aristotle thinks that, for living a good life it is necessary to participate in politics? Why people cannot live a perfectly good or virtuous life without politics?

The answer of the above question lies in our nature. Participation in politics and living in a polis, people can realize their nature as a human being. Aristotle treats people as for political association who stand in a higher position other than bees or gregarious animal. Animal communicate through sounds, but human being is the only one who has the capacity to communicate with each other through language. Language is a medium through which people can deliberately discern about the good (e.g., what is just or unjust, right or wrong). Aristotle asserts, only in a polis or political association through language people can deliberate with each other about good or evil, justice or injustice, right or wrong.

¹¹⁹ . Op.cit., p-195 .

Aristotle believes, the aim of moral life lies on happiness, but this happiness is not same as utilitarian view. To Aristotle, here the virtuous person takes pleasure and pain in terms of right things. Happiness is a way of being or an act of soul that performs in accordance with virtue and it's not a state of mind. He upholds, justice is a matter of fit. To allocate right is to search for telos of social establishment and give the roles that are suitable for them and these roles enable them to understand their nature.

Modern theories of justice do not concomitant with the notion of fit. Liberal theories of justice (Kant to Rawls) convey that, teleological conceptions are not compatible with freedom. To them, justice is about choice, not about fit. The rights of every individual does not allocate to giving the roles that fit or suit with their nature rather rights allocate for the people as they can choose their own roles what they want. So, this notion of fit is dangerous. Who is to decide which role is fit with me or suitable to my nature? If I am not free to choose my own role, then it might be force against my will. Therefore, the notion of fit can easily converted as slavery and it is wrong as it force people to play the roles that they have not chosen.

Form the above argumentative discussion Sandel conveys that,

Debates about justice and rights are often, unavoidably, debates about the purpose of social institutions, the good they allocate, and the virtues they honor and reward. ¹²⁰

Sandel upholds, without making the laws on neutral bases on such questions and without substantiate the nature of good life it is not possible to determine what is just.

¹²⁰. Op.cit., p-207.

Sandel argues, in these present days the concept that politics is about cultivating virtue might be strikes on many aspects or often it may be dangerous. Who is the decider what virtue consists in? And are people disagree these? If the law going to enhance some moral and religious ideals then doesn't this kind of activity of law open the way to coercion and intolerance? When we think that a state seeks to enrich virtue rather than anything we first think about the religious fundamentalism; such as, mandatory burkas, stoning for adultery, Salem witch trials etc.

Kant and Rawls both advocate that, those theories of justice rest on idea of good life (e.g., religious or secular) these are not compatible with freedom. By imposing values on people, such theories fails to respect freedom of rights and their purposes and ends to doing something with their own choice. So, people need to a framework of rights that are neutral from religious and moral controversies and give full opportunity to the citizens for choose values for their own.

Some of the political thinkers may object that, there are no morally neutral theory of justice and rights. On one level, apparently it is true. Kant and Rawls are not designated as moral relativists. Each and every individual are free to choose their own ends and it is a very strong moral idea in-itself. But it does not tell how one can live their own life rather it only speaks that, whatever ends you try to pursue it doesn't disrespect other people's rights to do the same.

The appeal of a neutral framework lies precisely in its refusal to affirm a preferred way of life or conception of the good.¹²¹

¹²¹. Op.cit., p-216.

Kant and Rawls both are trying to develop certain moral ideas and they do not refuse these. But they argue with those theories of justice that arise right from certain notion of good, such as, utilitarianism theory. It takes good in terms of maximizing pleasure or welfare and asks what way of right is likely to attain it. Aristotle advocates an absolutely different concept of good. It does not deals with maximizing pleasure, rather it focus on about understanding human nature and increase our distinct human capabilities. But Aristotle's argument is teleological, as he gives reason from certain notion of human good.

Sandel asserts, Kant and Rawls both are reject this kind of above reasoning. They both claim that, right has more priority than the good. The principles that regulate our rights and duties do not rely on any conception of good life. The ancient philosophers made a mistake to define the highest good. They give their entire effort on ethical investigations and then try to set up this good as determining ground for moral law. But, this is an inept thought for Kant and it does not compatible with freedom. If we think us as autonomous being then we must first choose to moral law. Only after that, we have reached at the principle that prescribes our rights and duties, then we can ask which notion of good are consistent with it.

On the basis of principles of justice Rawls states, liberties of citizens are insecure if it founded upon teleological theories. But Rawls and Kant are not the only philosophers who raise objection against utilitarian theories of justice. If right is prior than good, then Aristotle's doctrine of justice has some mistakes. He describes justice from the end of argument of telos or nature of good. To make just political order it has to set up reason from nature of good life. Without find out the best way to live, it is not possible to construct a just constitution. Rawls does not agree with the formation of

teleological notion as from the beginning it's associate with good and right in a wrong manner.

At stake in this contention is more than the question of how we should thought about justice. The argumentation about the priority of right over good is nothing but the debate about the meaning of freedom of human. Kant and Rawls refuse teleological notion of Aristotle as it does not give the room to choose our own good. He conceives justice as a matter of fit among individuals and ends or good suitable with their nature. But we adopt justice as a freedom of choice, not fit. As moral agent we are identified by our ability for choice not by our ends. In this context Rawls considers that,

We should therefore reverse the relation between the right and the good proposed by teleological doctrines and view the right as prior.¹²²

Sandel states, though egalitarian or libertarian aspire to set up neutrality about justice have a very strong appeal, but despite this appeal the notion of freedom is flawed. He does not think for a just society, freedom of choice or freedom of choice fair conditions is enough. He accepts the attempt to search neutrality for principles of justice which are often misguided him. He expresses,

It is not always possible to define our rights and duties without taking up substantive moral questions; and even when it's possible it may not be desirable.¹²³

¹²². Op.cit., p-218.

¹²³. Op.cit., p-220.

- **5.4.4 Some Emerging Controversies:** Sandel reflects on some major controversial issues which are trending around the world. Some of these are:

(a)*Debate on Abortion:* Consider about the very trending questions that cannot possible to resolve without taking stand on radical religious and ethical debate—abortion and embryonic stem cell research. Some thinkers argue that abortion should be banned as it kills of an innocent human life. On the other hand, several thinkers disagree with this view and hold that Government should not interfere on this issue and allow to decide the women whether she abort the baby or not.

Liberalists support to give abortion rights to every women without go into the moral and religious confliction. They resolve to abortion issue on the basis of freedom of choice and neutrality. But this argument does not acceptable. If growing fetus is morally equivalent to an infant, then abortion is similarly treated as morally equivalent with infanticide.

And few thinkers would suggest that, Government should authorize parents to take decision for themselves whether they carry their child or not. So, in accordance with the “pro-choice” ground about the controversy of abortion is not actually neutral on the underlying theological and moral question; it absolutely supports the assumption of Catholic Church’s teaching about the moral position of fetus that, from the moment of conception it is a person---is false.

To acknowledge this assumption is not substantiate to ban abortion. In fact, it advocate that, freedom of choice and neutrality are not only the adequate grounds for validate right for abortion. The case for approving abortion is no more neutral or banning, rather both aspects presuppose several answer to the underlying religious and ethical controversy.

Therefore, the arguments on abortion can not able to resolve the legal question without taking up religious and moral question. In this above case neutrality is not possible as it is involves the question of taking human life. Most political and moral controversies do not include the matter of life and death. So, advocates of liberal neutrality reply that, debate on abortion and embryonic stem cell special cases and except where human being is at stake, people can resolve arguments about rights and justice without supporting religious and moral controversies.

(b)Controversies on Same-sex Marriage: Sandel deals with the debate on same-sex marriage. Can people decide whether the state should accept same-sex marriage without interfering into religious and moral arguments of objective of marriage or the ethical position of homosexuality? Some of the people reply yes and justify this on liberal or non-judgmental basis by saying that one should be free to choose their marital or sexual partners. To allow heterosexuality and restraint homosexual marriage then these is go against equality as it wrongly discriminates against lesbians and gay men and denies equality.

If above argument is enough for state to acknowledge the same-sex marriage without considering the objective of marriage and its honors, then this matter can be sort out within the liberal public reasoning bounds. But this case cannot be made only on the basis of non-judgmental grounds rather it depends on certain purpose or point of the telos of marriage. Aristotle reminds us to argue about the aim and objectives of a social organization is to argue about virtues—its rewards and honors. So, the controversy about same-sex marriage is basically a debate about whether lesbian and gay are worthy of recognition and honor. And here the fundamental ethical question is unavoidable.

To find why this is so, it's very congruent to hold that, a State can receive three possible policies regarding marriage. These are: (i) State can consider only marriages between a woman and a man, (ii) it could allow to marriages of same-sex and opposite-sex marriages, (iii) State doesn't accept any kind of marriages, but permit this role to private institutions.

In addition of marriage laws, States can bear domestic partnership laws that allow inheritance rights, legal protection, hospital visitation right, child custody for the unmarried couples who enter into legal terms and live together. Many countries have set up such kind of arrangement for gay and lesbian partners.

The Supreme Court of California in 2003 gives verdict in favour of same-sex marriage. In 2009, Vermont became the First State that approves same-sex marriage by legislation rather than by judicial ruling (Policy 2).

Third Policy is the ideal libertarian that could solve that marriage debate. It does not supersede marriage but it does demolish marriage as a state authorized organization. In short, it might be interpreted as the disestablishment of marriage (i.e., get free from marriage as an official State duty). Few of the thinkers have embraced this disestablishment proposal. But it sheds light on the existing debate and helps to find out why the proponent and opponents are conflicted with the religious and moral controversy on the purpose of marriage.

On the moral or religious grounds those who does not accept the same-sex marriage, believe that it dishonour the true meaning of marriage and make it bashful and sin. But who are favour same-sex marriage they are made their views on the basis of neutral grounds and ignore moral meaning of marriage. The effort to find a non-

judgmental case are draws their view on the idea of freedom of choice and non-discrimination.

But freedom of choice and autonomy are inadequate to support the right to same-sex marriage. Many opponents argue that, reproduction is the key purpose of marriage, but same-sex couples are not able to procreate, so they do not have right to marry. This reasoning is a main argument against same-sex marriage. Margaret Marshall, chief justice of Massachusetts Supreme Court though accepts this argument but she believes that, not recreation, loving commitment between two partners is the essence of marriage whether they may be straight or gay is not the matter. Reproduction is not a condition for marriage neither it is the grounds for divorce.

From the above controversial arguments against same-sex marriage it may be remarked that, this case cannot stand on freedom of choice and non-discrimination. In order to clarify – who should be worth for marriage, we must think this matter through the objectives of marriage and virtues it honours. And this has been taken us into controversial moral terrain, where we cannot take stand on neutral position towards conflicting ideas of good life.

- **5.4.5 Conclusion:** To explore the concept of justice Sandel discusses three approaches to justice of different previous thinkers. The first approach holds that justice stands for maximizing utility or welfare, second approach holds justice means respect the freedom of choice and the third one advocate that justice includes cultivating virtue and reasoning for the common good.

From the above analysis it can assumed that, Sandel choose the version of third approach about justice. Let's explain his point of view:

The first approach of justice is utilitarian approach that has two demerits—first, it considers justice and rights on matter of calculation, not as principle; second, by attempt to translate all human good in a uniform or single measure of value, it flattens them as it does not concedes the qualitative distinctions among them. The second approach of justice that focused on freedom-based theories that solve the first problem but not the second one. They conceive the rights seriously and apprehend that, justice is mere than mere calculation. Though there is a disagreement among them in context of which rights should outweigh utilitarian thought. They admit that, some rights are essential and must be respected. But beyond pick out such rights as worthy of respect, they also respect people’s favouritism as they are. These theories uphold moral worth of end that people follow meaning and importance of the lives that they conduct and the character and quality of common life they have shared with each others are all stand beyond the region of justice.

To Sandel, this is a mistake. Just society can never be created simply by increasing utility or by securing freedom of choice. He justifies that,

To achieve a just society we have to reason together about the meaning of the good life, and to create a public culture hospitable to the disagreements that will inevitably arise.¹²⁴

It is tempting to look for a process or principle that could validate once and for all, whatever distribution of opportunity, income or power emanated from it. If people find such kind of a principle that would enable them to abstain from confliction and chaos then that contention about good life is invariably stir up.

¹²⁴ . Sandel, M., *Justice: What’s The Right Thing toDo?*,p-261.

But the above reasoning cannot be avoidable. In fact, inescapably justice is judgmental, whether people are debating on surrogate motherhood, abortion, same-sex marriage, affirmative action or military service, questions of justice are related with the notion of virtue, honor, pride and acknowledgement. In this respect Sandel expresses that,

Justice is not only about the right way to distribute things. It is also about the right way to value things.¹²⁵

To set up a new politics of common good Sandel concludes with four possible themes:

(i) *Citizenship, Sacrifice and Service:* If a just Society needs a strong and sensible community as well as common good for all, it needs to get a way to cultivate the citizens that will make a connection with entire human being.

(ii) *The Moral limits of Markets:* One of the most prominent features of this modern period is extension of markets, as it is effective device for organizing productive activity. But unless people want to approve the market or rewrite the regulations that control social organization, people need an open discussion about ethical boundary of markets.

(iii) *Inequality, Solidarity, and Civic Virtue:* In recent decades there is a huge gap between rich and poor people and day by day it is rapidly increased. So, it is necessary to diminish this gap and make a compactness democratic citizenship.

¹²⁵ . Op.cit, p-261.

(iv) *The Politics of Moral Engagement:* People must require a stronger and attached civic life. This reciprocal relationship with moral confusions of the citizenship will provide a stronger bonus for mutual respect. Therefore, a politics of moral contentions is not only a more enlightening ideal than a politics of abstinence even it is a more promising ground for establishing a just society.

❖ **5.5 *Pogge's Perception towards Justice:*** Thomas W. Pogge develops a more consistent global interpretation of justice as fairness than Rawls. In fact, it not only acknowledges the difference principle even it apply on the international level and also on national level. Pogge observes that, Rawls understands his account of justice is comparatively egalitarian as he applied it internationally. Pogge asserts that, though Rawls successfully applied his theory internationally, but he fails to apply his theory internationally and there is no connection between Rawls's concept of domestic justice and global justice. Though Rawls believes that, well-off societies have a duty to help the worst-off societies but he refuses to apply his difference principle globally. But on contrary Pogge offers a global egalitarian principle of distributive justice. He thinks this will address socio-economic equalities and it is helpful for the worst-off persons of the world.

Pogge gives an ample attention on the moral analysis of World poverty in terms of human rights. He expresses that, in the more developed countries there are a large number of poor people who have suffered from social disadvantages, rejection or neglect and disrespect for their inferior socio-economic position in the society. So, freedom from poverty is a most essential thing of the human interests. Pogge translated the freedom into world terms that means economic understandings and these will

secure to provide a healthy peaceful life for the inhabitants of every nation and everywhere in the world. In order to live a healthy life every human being need to food, water, shelter, clothing, and basic medical care. But there are such people in the developing world who are very poor and do not get a sufficient amount of these basic necessities to secure their life and so they are living in an uncertain condition.

Pogge asserts that, 80% of global incomes are earned by 15% of humankind in the developed countries. He argues that, to eradicate poverty it should be moral compulsion that wealthy states share their 1% or 2% income towards development of poor people. Yet most of the affluent people believe that they have no responsibility towards the poor people. But Pogge seeks to clarify that, there are such obligations imposed by the respective Government. He analyses how a moral and global economic order help to eradicate mass poverty from the world. In order to set up socio-economic equality in the world or to control international inequality he proposes a “global resources tax” or “GRT”.

The basic idea is that, while each people owns and fully controls all resources within its national territory, it must pay a tax on any resources it chooses to extract. ¹²⁶

For instance, people of the Saudi Arab need not to extract crude oil or give permission to others to do so. But if they choose to extract the oil then they have to pay a proportional tax for any kind of extraction, whether it will be done for their own use or to sale across the world. This tax can be elongated in the respective area for reusable resources, like, the land that are used for agriculture and the air and water that are used for discharging the pollutants.

¹²⁶. Pogge, T., *An Egalitarian Laws of Peoples*, p-200.

The responsibility of GRT is not only borne by the owners of resources rather it would lead to higher prices for minerals, crude oil and so forth. So, Japanese (they have no oil of their own, but import the oil) have some responsibility to paid some of the GRT, even though the tax is actually given by the peoples who have their own oil reserves and choose to extract them as per their needs. This point may help to alleviate the matter that GRT proposal is neutral and it is fairly biased against the resource-rich, some rich peoples, and in favour of other peoples.

Thus, GRT is a tax on expenditure. But it differently imposes taxes from different kinds of expenditure. The cost of an art museum ticket will contain not a higher portion of GRT than the cost of gasoline oil companies and coal mining companies. This tax falls under the goods and services in proportion of their content of resources or how much value it takes from the planet. Nations or the individuals may use the resources as per their requirement, but a large number of people still pay a low amount of GRT in accordance with their uses of resources or their profits from these resources. In this context, Pogge demands that, if a person uses unlimited amounts of resources then his duty is to share some of his economic benefits to the Government.

National Government has responsibility to use the GRT for the improvement of the present and future poor people across the world. And this can help to provide them proper health care, education, means of production and jobs to an adequate purpose. In a way, these help to fulfil the basic needs of the poor people with dignity and as a result they can effectively able to represent their interests and rights against the rest of humanity. Pogge thinks that, in an ideal world of just well-ordered societies on the basis of population size and per capita income of burdened societies the fund from the collection of GRT could be directly transferred to the Governments of the disadvantaged societies to help the global poor. The reliable and comprehensive data of

the poorest societies are collected by the World Bank, United Nations, International Monetary Fund and many others organizations. The well-ordered societies are easily getting the data to monitor the fund from GRT payment to the poorest societies all over the world. According to Pogge, this kind of payments should be treated as a matter of entitlement not as charity and it is an obligation of international justice. But the acceptance of GRT payments is a voluntary thing; a less well-off society is democratically free to refuse such kind of funds if they choose to do so.

In this world if the poorer state governments are honest then they directly disburse the funds, but if the Government is corrupt and use the funds for ruler's personal purpose then the corrupt Government may be cut off from GRT funds. In these cases the funds would be possible to disburse to the worst-off societies through the existing United Nations agencies (UNICEF, WHO, World Food Program) or through the competent nongovernmental organizations (Oxfam). If the GRT funds cannot be successfully used to improve the condition of the poor people in a specific country, then there is no meaning left to spend the funds in the respective country. This fund should spend in those societies where it can be more effective to make a huge difference in reducing poverty and inconvenience.

Here a question may arise: what about the widespread importance of the GRT? In regard with recent huge inequalities in social and economic fields in the global world one may think that a large amount of GRT scheme is essential to assist global background justice. But Pogge does not fully agree with this view. He asserts that, recent inequalities are the accumulative result of centuries and decades in which the more-uplift persons utilized their benefits in capital and knowledge to enlarge these amenities ever further. Instead of overwhelmingly strong centrifugal propensity of the worldwide market system they show the ability of long-term compounding. In this

context Pogge asserts that, a small GRT may be effective to balance these common centrifugal tendencies of market systems and sufficient to obstruct the growth of boundless inequalities and to sustain in equilibrium a rough sketch of worldwide distribution that perpetuate global background justice.

To achieve some advancement for worst off people Pogge suggests to settle for 1% GRT of world product and less than 1% is a smaller amount but it will be help to better improve the interests of global burdened people in long run. A 1% GRT would raise revenues of approx 270 billion dollar in a year and this amount is a huge amount in respect of the total income of the world's one billion poorest persons. If this amount effectively utilize for the interests of poor people then it would make a phenomenal difference in the development of poorest people in the world within a few years. On the other hand, this amount is small for the rest of the people and less than the current annual market price of crude oil production even it is less than the annual defence budget of the United State. Thus, from the small amount of GRT from resource uses a large amount of revenue collected that will be target to improve the desirable advancement for the sake of future generations also.

As far as it will be observed that, by introducing a 1% GRT from the resource uses would be an instantly effective and morally striking institutional reform for the subsisting global order.

The rules of the global institutional order may also affect people indirectly, by co-shaping the national institutional order under which

they live. The international resource and borrowing privileges accorded to despotic rulers provide an obvious example.¹²⁷

Here Pogge also clears that, though institutional reforms establish a GRT need, but it not go against the national interest of the advanced states.

One may raise a question: would people of the well-off societies only be motivated to pay their GRT by a sense of justice or generosity or possible disgrace at being exposed for not paid the taxes? Pogge replies that, behind the payment of GRT there is some international sanctions:

Once the agency facilitating the flow of GRT payments reports that a country has not met its obligations under the scheme, all other countries are required to impose duties on imports from, and perhaps also similar levies on exports to, this country to raise funds equivalent to its GRT obligations plus the cost of these enforcement measures.¹²⁸

- **5.5.1 Criticism:** Against Pogge David Miller argues that, Pogge attempts to assign the responsibility for removing the poverty in an international order on those citizens of well-advanced states and their Governments, which is an impossible thing. In fact, remedial responsibilities for poor people of the world is not simple even it is depends on many variety of factors.

¹²⁷. Pogge, T., and Follesdal, A., *Real World Justice: Grounds, Principle, Human Rights, and Social Institutions*, p-7.

¹²⁸. Pogge, T., *An Egalitarian Law of Peoples*, p-219.

- **5.5.2 Conclusion:** From the above analysis of Pogge's doctrine of justice it has been observed that, as a libertarian he gives emphasis on the equality of all people across the world. He believes that, in this global world there is a huge difference in socio-economic field and as a result a large number of people deprived from their human rights, basic needs and do not able to utilize their abilities. So, he tries to diminish this difference among the well-off and worst off people by presenting his global resources tax and attempts to establish global justice. The importance of global justice approach reaches beyond many aspect of thought. This concept breaks down the conventional separation of international and international relations and expands the institutional analysis in extensive field. It is very important for enabling common peoples---in the advanced countries particularly to pursue a reasonable understanding of their moral condition and obligations. Further it is very helpful for motivating or encouraging development economists and social scientists to surpass their preference toward explicatory nationalism, their tendency to illustrate poverty and hunger in terms of causal factors which are domestic for societies where they occur.

It makes visible how we citizens of affluent countries are potentially implicated in the horrors so many must endure in the so-called less developed countries, potentially implicated in the violence and hunger inflicted upon them. ¹²⁹

Pogge's acceptance of a universal core criterion of basic justice in form of global principle of justice includes an expansive measure of human upliftment all over the

¹²⁹. Pogge, T., and Follesdal, A., *Real World Justice: Grounds, Principle, Human Rights, and Social Institutions*, p-6.

world. His global institutional scheme attempts to secure each and every human being to access minimum share of basic freedoms, participation and basic needs. He urges that, our moral task is to recognize and realize these basic requirements of the people to establish of the global peace and global justice. Though his theory is not a complete theory of justice but in this modern age it has got an important place.

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