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Review essay of Michael Sandel, *Justice: What's the Right Thing to Do?* (London: Allen Lane, 2009) and Amartya Sen, *The Idea of Justice* (London: Allen Lane, 2009)

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Is it acceptable for hotels to overcharge people whose houses were destroyed by a hurricane given the higher demand for hotel accommodation; or for investment bankers to receive large bonuses from public money? Is it right to pay poor Indian women to be surrogate mothers for infertile American couples, or for people to sell their kidneys? These are a few of the questions that *Justice: What's the Right to Do?* tries to answer. The book is based on a course that Sandel has been teaching at Harvard University for the last twenty years, and which can now be watched and listened to on a publicly accessible website (www.justiceharvard.org). The book also comes in audio version.

Sandel takes the reader on a journey into moral reasoning. The book is not only a lively and accessible introduction to political philosophy that expounds in the most pedagogic way three major ethical theories in the history of moral philosophy – utilitarianism, liberalism and virtue ethics – it is also a moral guide on how to reason through contested issues. It is rich with illustrations assisting the reader to understand and assimilate what each ethical framework says about justice.

For utilitarianism, a just society is one that has maximized to the greatest extent the welfare of the greatest number. One state of affairs is more just than another if the people in that state have attained a higher level of welfare overall, understood in terms of utility. For liberalism, justice is about respecting freedom. A state of affairs is just if it has enabled each individual freely to live his or her conception of the good life. People have different understandings of what it means to live well. The government cannot arbitrate among competing conceptions of the good life and should therefore be neutral and provide the conditions for the freedom of every individual to live a life of his or her own choosing. The third approach to justice is that of cultivating virtues, which are the ‘attitudes and dispositions, the qualities of character, on which a good society depends’ (p. 8). Questions about justice cannot be separated from questions about the good society and the nature of the kind of lives that people live. The aim of politics is not to protect people’s rights to live whatever life they want to live, but to nurture good qualities of character, to form ‘good citizens’.

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Although *Justice* is an excellent account of the major ethical perspectives on life today, Sandel does not hide his position on them. He clearly contends that government cannot be neutral about conceptions of the good life and that virtue ethics is the way forward: ‘Thinking about justice seems inescapably to engage us in thinking about the best way to live’ (p. 10); ‘It may not be possible to say what’s just without arguing about the nature of the good life’ (p. 207). This is why, Sandel concludes, deliberation about the good life is the key feature of political life. Even if unanimous agreement cannot be reached, judgments about the good cannot be escaped, for they are central to justice and a just distribution of resources.

Sen’s *Idea of Justice* offers some sharp contrasts to Sandel’s *Justice*. The style is academic unlike Sandel’s popularizing prose. Both books contain a detailed account of utilitarianism and Rawls’ political liberalism. But while Sandel’s can be listened to while jogging or driving a car, Sen’s style makes for serious concentration. The discussions of practical cases are also more generic. The hard moral questions about CEO’s pay, surrogate motherhood or kidney sales are replaced by such wider categories as famine, poverty, equality, malnutrition or women’s oppression. While *Justice* concentrates on what the right thing to do is in concrete moral situations, *The Idea of Justice* limits itself to offering the reader a framework in which to judge whether one situation is better than another. The tale told in both books of three children quarrelling over a flute is illuminating of the differences.

The issue is about the allocation of a flute to three children with distinctive attributes: one who plays the flute, one who made it, and one who has no toy. What’s the right thing to do in this case? How to allocate the resource? Sandel argues that justice requires that the flute go to the child who can play it. Following Aristotle, the argument is that each action has an end, which is to pursue what is thought to be good. The good use of the flute is linked to what a flute is for, to produce music. A just distribution of resources is one that allows each to pursue their end, in this case the playing of the flute.² In contrast, Sen does not give any opinion about the just distribution of the flute. He concludes instead that there are competing moral frameworks and that there are disagreements about the just distribution of resources.

The major thrust of the *Idea of Justice* is that the question of what is a just society is not a good starting point for thinking about justice. What is needed is a comparative, not a transcendental, approach to justice. One does not need to know what a perfectly just society

² Aristotle’s function argument actually applies to human beings and not objects. The function, or end, of human beings is to be fulfilled. Allocating resources should be such as to enable each to live a flourishing human life.

is, and what constitutes just institutional arrangements.³ Rather, if one state of affairs can be said to be better or worse than another, this is enough to start remedying injustices. Justice need not be defined exactly in order to be able to say that a state of affairs where fifty per cent of the population under five are malnourished is more unjust than one where five percent are.

The *Idea of Justice* seeks to be as encompassing as possible. I have tried to situate Sen's comparative approach to justice within the three ethical perspectives that Sandel expounded. Given his earlier writing on *Development as Freedom*, Sen's views might be thought to be located within liberalism or more precisely liberal egalitarianism.⁴ One state of affairs is more just if people have more freedoms guaranteed. If in situation A, more people are free to be healthy, go to school, express themselves and participate in running the affairs of their community, than in situation B, where some minorities are excluded from health and educational services and political life, situation A is more just because more people are able to live a life of their choice. But this conclusion has a consequentialist, utilitarian flavour. A is more just than B because in A people have overall a greater level of welfare, conceived of in terms of freedoms or capabilities, not utilities.⁵ But unlike utilitarianism, the *Idea of Justice* has dominance but not aggregation. If in situation A, people earn an average annual income of £20K but have a lifestyle that would need three planets to sustain if universalised, and if in situation B, people earn on average £10K a year but have a one-planet lifestyle, is situation A better or worse than B? This is where the *Idea of Justice* has a touch of virtue ethics. The book affirms that it is for reasoning and deliberation to conclude whether people in B live a better life than A. Thus, one can infer that, in Sen's view, discussion about justice is not easily separated from discussion about the good life and the good society. It critically rests on reasoning about the nature of what a 'good human life' is.

The *Idea of Justice* reads like a synthesis of utilitarianism, liberalism and virtue ethics. Sen has been able to develop a system of thought that pulls together the major alternative ethical approaches.⁶ His generous philosophical embrace looks promising for dealing with the moral dilemmas encountered today for those working in making the world a little less unjust. However, such embrace and eclecticism comes at the cost of consistency, if not intellectual honesty. This is where Sandel's *Justice* furthers the journey that Sen's *Idea of Justice* is wary of travelling and makes explicit the hidden normative foundations of Sen's idea of justice. It

³ The central argument of the *Idea of Justice* had already been made in Sen (2006).

⁴ For how the capability approach fits into liberal egalitarianism, see Robeyns (2009).

⁵ Sen (2000) does not reject the consequentialism of utilitarianism but broadens it to non-utility considerations.

⁶ See Sánchez (2009) for a thorough description of the eclectic nature of Sen's thinking.

does so by extending reasoning to substantive moral questions and extending comparative judgements to moral judgments.

Sen constantly emphasises the importance of reasoning for thinking about justice. To single out some of the many statements on the subject throughout the 400 pages of the book: ‘Reasoning is central to the understanding of justice’ (p. xviii); ‘The role of unrestricted public reasoning is quite central to democratic politics in general and to the pursuit of social justice in particular’ (p. 44). Sen is obviously not naïve about the reach of reasoning but nonetheless he has faith that reasoning can overcome unreason:

The pervasiveness of unreason presents good grounds for scepticism about the practical effectiveness of reasoned discussion of confused social subjects. [...] This particular scepticism of the reach of reasoning does not yield any ground for not using reason to the extent one can, in pursuing the idea of justice [...] Unreason is mostly not the practice of doing without reasoning altogether, but of relying on a very primitive and very defective reasoning. There is hope in this since bad reasoning can be confronted by better reasoning. (p. xvii-xviii)

But while the *Idea of Justice* is constantly argues that there is a need for more critical scrutiny and reasoning, it gives very few signposts as to how one may go about this. The Copenhagen talks on climate change held in December 2009 would pass the Senian test of ‘reasoning’ as a way of reaching judgments about states affairs and rank different alternatives. Governments, international organizations and many civil society organizations reasoned together about what action to take regarding climate change. They all agreed that a state of affairs where carbon emissions are reduced is comparatively better than one in which they are not, yet the reasoning fails to fulfil the demands of social justice for the comparative judgement that was reached did not provide the conditions for further generations, and increasingly this current generation too, to live well. There is surely more to justice than reasoning alone.

Sandel is more explicit in rooting reasoning in moral soil. For Sandel, reasoning is not only about discussing the basis of reasons, but about reflecting on the nature of the good life and the kind of society one wants to live in. Public reasoning bears on the nature of the society we create through our actions. Sandel proposes a dialectic method of reasoning, which starts from our own moral convictions and is oriented towards an end, the good life that we seek to live together: ‘A just society involves reasoning together about the good life’ (p. 261).

Sen’s *Idea of Justice* contains general references to critical scrutiny of one’s reasons for holding certain positions in the light of other people’s reasons (e.g. p. 180), but emaciates reasoning from its main nutrients, that is, it leaves out judgements about the good. Without explicit judgement about our own moral convictions and acknowledgment of the nature of the

aim that reasoning pursues (e.g. is it good, hence just, that Western countries have a lifestyle that has negative consequences for people in the developing world?), there is little hope in remedying injustices in the world. It is no coincidence that the *Idea of Justice* lacks references to unjust situations beyond generalities and is economical with concrete examples of how justice through reasoning works in practice. It would have engaged the reader more had questions such as this been addressed: Given that India now hosts a good part of the world's billionaires, would it be just for the Indian government to impose a tax on billionaire wealth, as France has done with its solidarity tax on wealth (*impôt de solidarité sur la fortune*)?

One could object that Sen's capability approach is perfectly suited to answer the above question by giving us a framework of evaluation by which to compare different states of affairs. Has the special tax on wealth enabled French people to live better lives; that is, has it allowed for more redistributive policies that have expanded the freedoms of the French to live lives they have reason to choose and value?⁷ If the answer to the latter question is positive, then the introduction of such a tax has certainly been 'just' since it has a given rise to an expansion of people's freedoms. The freedoms of millionaires to 'live a life they have reason to value' may have been curtailed but this was for the sake of greater freedoms for others. Moreover, the tax has been voted through democratic processes so the tax is just because it is the outcome of public reasoning in France which concluded that a state of affairs with the tax was comparatively better than one without the tax.

In his works with Jean Drèze, Sen has been more sympathetic towards practical moral dilemmas than in the *Idea of Justice*. In a section entitled 'Hunger amidst plenty', Drèze and Sen (2002: 336-340) implicitly ask the question 'Is it right for the Indian government to subsidize the price of food grains?' In a situation of widespread child malnutrition and women's anaemia, this is certainly not, their analysis maintains, the 'right thing to do'. Their description of food policy is one of the best and succinct examples of how the capability approach works in practice to remedy injustices. They start with assembling the evidence: on malnutrition, low birth weight and anaemia, and the existing food grain stock (equivalent to about one tonne of food for each household below the poverty line). They then examine the cause of this situation: government support for a minimum price for food producers, which has advantaged large-scale food producers; and finally they condemn the policy as unjust.

⁷ Sen has notoriously refrained from specifying the valuable freedoms that constitute the capability evaluation space. See Robeyns (2003), Sen (2004) and Alkire (2002, 2007) for a discussion of the valuation of freedoms.

We can see here how the capability approach makes a moral judgement about the good society, and derives justice from it. The example fits with Sandel's conclusion that justice is 'inescapably judgmental' (p. 261). It is not just for children to be malnourished and women to be anaemic in a country that has food in surplus: 'Whether we are arguing about financial bailouts, surrogate motherhood, affirmative action, CEO pay ... [j]ustice is not only about the right way to distribute things. It is also about the right way to value things' (p. 261).

Yet, Sen refuses explicitly to link justice to moral judgement about the good life. One story described in *The Idea of Justice* is particularly symptomatic of this. It is about two passengers on a plane, one sitting next to the window reading a book and enjoying the sun and the other playing a computer game (pp. 191-3). The latter asks the former if he can shut the window because the sun prevents him from looking clearly at the screen. How should one respond to the request? Sen answers that, even if one disapproves of the other passenger's activity and believe that his playing a 'silly' computer game goes against his wellbeing (he would be better off reading the *New York Times*), there is a wider social norm – influenced by liberalism – of being considerate to others, irrespective of what one thinks of that other person's life and goals. Therefore, one should shut the window to enable one's neighbour to pursue the goal of which one disapproves.

The story is meant to illustrate a point about rationality. Sen argues that it is not irrational to behave against one's wellbeing and those of others because one should not prevent others from pursuing their goals, as long as they 'are not in any sense evil' (p. 192): 'We live in a world in which there are a lot of other people, and we can give them room for their own way of living even without adopting their way as something that we must see as a good thing to promote' (p. 193).

The issue at stake here is less trivial than it looks. The conclusion from this example is that justice requires that one should not impose one's value judgement on someone's leisure activities, as long as they 'are not in any sense evil'. But this is where the Pandora box is open and where Sen's idea of justice is unable to deal adequately with its contents. Judgements about the 'good life' and of the activities which go against it are unavoidably part of democratic life. Legislators do argue about what kind of video games should be allowed, because these questions are linked to the kind of society we are creating. If our neighbour in the plane had been playing a violent video game, justice would require that some substantive moral judgements be made about the extent to which one should be free to pursue leisure activities.

Unfortunately, Sen's *Idea of Justice* does not give the reader the ethical equipment to deal with the hard moral questions which permeate our lives. The capability approach does indeed give us a good framework to evaluate and compare different states of affairs but one is left to determine alone what's the 'right thing to do' in the many challenges of injustices. Sen would say this is where freedom comes in; at which point, a good way towards learning how to exercising it would be to read Sandel's *Justice*.

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