



ILE MULTIDISCIPLINARY  
JOURNAL

VOLUME 4 AND ISSUE 1 OF 2025

INSTITUTE OF LEGAL EDUCATION



ILE MULTIDISCIPLINARY  
JOURNAL

WHILE THERE'S RESEARCH THERE'S HOPE

ILE MULTIDISCIPLINARY JOURNAL

APIS – 3920 – 0007 | ISSN – 2583-7230

(OPEN ACCESS JOURNAL)

Journal's Home Page – <https://mj.iledu.in/>

Journal's Editorial Page – <https://mj.iledu.in/editorial-board/>

Volume 4 and Issue 1 (Access Full Issue on – <https://mj.iledu.in/category/volume-4-and-issue-1-of-2025/>)

### Publisher

Prasanna S,

Chairman of Institute of Legal Education

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

Phone : +91 94896 71437 – [info@iledu.in](mailto:info@iledu.in) / [Chairman@iledu.in](mailto:Chairman@iledu.in)



© Institute of Legal Education

**Copyright Disclaimer:** All rights are reserve with Institute of Legal Education. No part of the material published on this website (Articles or Research Papers including those published in this journal) may be reproduced, distributed, or transmitted in any form or by any means, including photocopying, recording, or other electronic or mechanical methods, without the prior written permission of the publisher. For more details refer <https://mj.iledu.in/terms-and-condition/>



## BOOK REVIEW THE IDEA OF JUSTICE BY AMARTYA SEN

**AUTHOR** – AJAY PRATAP SINGH, STUDENT AT AMITY UNIVERSITY, LUCKNOW

**BEST CITATION** – AJAY PRATAP SINGH, BOOK REVIEW THE IDEA OF JUSTICE BY AMARTYA SEN, 4 (1) OF 2025, PG. 975-981, APIS – 3920-0007 | ISSN – 2583-7230.

### 1. INTRODUCTION

Amartya Sen's *The Idea of Justice* (2009)<sup>702</sup> is a seminal work in legal and political philosophy that challenges the traditional notions of justice and offers a more pragmatic, comparative approach to achieving justice. Drawing upon diverse intellectual traditions, including Indian philosophy, Western political thought, and economic reasoning<sup>703</sup>, Sen presents a justice framework that prioritizes the reduction of injustice over the creation of a perfectly just society. His arguments, grounded in real-world concerns<sup>704</sup>, provide a fresh perspective on how societies can pursue justice through public reasoning, democracy, and human rights. This review critically examines Sen's key arguments, their relevance to law and governance, and the book's broader implications for legal scholars and policymakers.

**KEYWORDS**– Amartya Sen, The Idea of Justice, Comparative Justice, Capability Approach, Nyaya and Niti, Human Rights, Public Reasoning, Democracy, Legal Philosophy, Social Justice, Constitutional Law, Welfare Economics, Judicial Interpretation, Participatory Governance, Transcendental Institutionalism, John Rawls, Legal Theory, Policy Making, Indian Philosophy, Realization of Justice



<sup>702</sup> Amartya Sen, *The Idea of Justice* 1 (Harvard Univ. Press 2009).

<sup>703</sup> Id. at 4.

<sup>704</sup> Id. at 6.



## 2. AUTHOR BACKGROUND

Amartya Sen, the author of *The Idea of Justice*, is a distinguished economist and philosopher known for his contributions to welfare economics, social justice, and human development<sup>705</sup>. His interdisciplinary approach combines economics, ethics, and political philosophy to address real-world issues of inequality and justice.

Born in 1933 in Santiniketan, India, Sen studied at **Presidency College, Calcutta**, and later earned a Ph.D. from **Trinity College, Cambridge**. He has held esteemed academic positions at **Harvard University, Oxford University, and the London School of Economics**, shaping modern debates on democracy, poverty, and justice.

Sen is best known for his **capability approach**, developed with Martha Nussbaum, which measures well-being based on individuals' real freedoms rather than just income<sup>706</sup>. His groundbreaking work *Poverty and Famines* (1981) demonstrated that famines result more from political failures than food scarcity<sup>707</sup>. In **1998, he received the Nobel Prize in Economic Sciences** for his contributions to welfare economics and social choice theory.

Sen's expertise in **economics, ethics, and governance** influences *The Idea of Justice*, where he argues for a practical, comparative approach to justice instead of abstract ideals<sup>708</sup>. His focus on reducing injustice through democracy and public reasoning makes the book essential reading for policymakers, economists, and legal scholars.

## 3. SUMMARY OF THE BOOK

Sen distinguishes between two approaches to justice: **niti** (institutional rules and structures) and **nyaya** (realization of justice in people's

lives)<sup>709</sup>. He critiques the **transcendental institutionalism** of philosophers like John Rawls, Immanuel Kant, and Jean-Jacques Rousseau, who focus on defining ideal institutions<sup>710</sup>. Instead, he argues for **comparative justice**, which assesses and improves existing systems by addressing specific injustices.

A central theme in Sen's argument is the **capability approach**, developed with Martha Nussbaum<sup>711</sup>, which prioritizes people's actual freedoms and opportunities over theoretical rights or wealth distribution. He believes justice should be measured by how well individuals can achieve well-being rather than by abstract institutional principles.

Sen also highlights the **importance of democracy and public reasoning**, arguing that diverse perspectives and collective decision-making are essential in shaping justice<sup>712</sup>. He draws insights from Adam Smith, Mary Wollstonecraft, and John Stuart Mill to advocate for pluralism and participatory justice<sup>713</sup>.

## 4. KEY THEMES AND ARGUMENTS

### 4.1 Critique of Transcendental Theories of Justice

Sen challenges the influential theory of justice presented by **John Rawls in A Theory of Justice (1971)**. Rawls' theory is based on the idea of a perfectly just society structured around the "original position" and the "veil of ignorance," where rational individuals agree upon principles of justice.

Sen argues that such theories suffer from **three major limitations**:

**Abstract Idealism:** Rawls' model focuses on defining an ideally just society rather than tackling injustices that exist in the real world.

<sup>705</sup> Id. at 12.

<sup>706</sup> Sen, *The Idea of Justice*, supra note 1, at 75

<sup>707</sup> Amartya Sen, *Poverty and Famines: An Essay on Entitlement and Deprivation* 45 (Oxford Univ. Press 1981).

<sup>708</sup> Sen, *The Idea of Justice*, supra note 1, at 112.

<sup>709</sup> Id. at 215.

<sup>710</sup> John Rawls, *A Theory of Justice* 15 (Harvard Univ. Press 1971).

<sup>711</sup> Martha Nussbaum, *Creating Capabilities: The Human Development Approach* 50 (Belknap Press 2011).

<sup>712</sup> Sen, *The Idea of Justice*, supra note 1, at 271.

<sup>713</sup> Adam Smith, *The Theory of Moral Sentiments* 136 (Penguin Classics 2009).



**Institutional Fixation:** Rawls emphasizes institutional structures rather than the lived experiences of people affected by injustice.

**Lack of Comparative Analysis:** Rawlsian justice does not provide tools to compare and reduce injustices in different societies.

Instead of constructing an ideal theory, Sen promotes a **comparative approach**, which assesses different forms of justice and focuses on eliminating the most pressing injustices first.

#### 4.2 The Nyaya vs. Niti Distinction in Justice

Sen draws from **Indian philosophical traditions**, particularly the distinction between *Niti* (institutional justice) and *Nyaya* (realized justice), found in ancient Sanskrit texts such as the *Mahabharata* and *Arthashastra*. *Niti* refers to the rules and structures of justice, whereas *Nyaya* is concerned with how justice manifests in real life.

He argues that modern legal and political systems should prioritize *Nyaya*, focusing on outcomes and lived experiences rather than merely adhering to rigid institutional rules. This is particularly relevant in **constitutional law and human rights**, where legal frameworks often fail to translate into actual justice for marginalized groups.

#### 4.3 Capabilities Approach and Human Rights

Sen builds upon his **Capabilities Approach**, developed with Martha Nussbaum, which argues that justice should be measured by people's actual freedoms and capabilities rather than by mere economic equality.

For example, merely ensuring **formal legal equality** (e.g., granting voting rights) is insufficient if socioeconomic barriers prevent individuals from fully exercising those rights. Justice should be evaluated based on whether people have real opportunities to lead dignified lives. This perspective is crucial in human rights discourse, as it shifts the focus from abstract

legal protections to concrete improvements in human well-being.

#### 4.4 Public Reasoning and Democracy

One of Sen's strongest arguments is that justice must emerge from **public reasoning and democratic dialogue** rather than being dictated by top-down legal or political institutions. He emphasizes the role of **open deliberation, media, and civil society** in shaping justice.

He critiques authoritarian regimes that claim to deliver justice without democratic participation.

He highlights historical examples where **public discourse led to legal and social reforms**, such as the abolition of slavery and women's suffrage movements.

He argues that **cross-border discussions** are essential for global justice, advocating for stronger international human rights mechanisms.

### 5. RELEVANCE TO LAW AND GOVERNANCE

Sen's work has **direct implications for legal theory, governance, and policy-making**:

**Judicial Interpretation:** Courts should prioritize substantive justice (*Nyaya*) rather than strict procedural compliance (*Niti*).

**Human Rights Laws:** The focus should be on actual empowerment rather than mere legal formalities.

**Public Interest Litigation (PIL):** Sen's emphasis on participatory democracy aligns with the increasing use of PILs in India to address systemic injustices.

**Constitutional Amendments:** The book provides theoretical support for reforms aimed at strengthening **Directive Principles of State Policy (DPSPs)** to ensure social justice.



## 6. CRITICISM AND COUNTERARGUMENTS

While Sen's arguments are widely appreciated, they are not without criticism:

**Lack of Institutional Guidelines:** Critics argue that Sen's comparative approach does not provide concrete institutional mechanisms to implement justice reforms.

**Underestimation of Ideal Theory:** Some scholars believe that ideal theories, like those of Rawls, provide **long-term moral and political direction** even if they are not immediately achievable.

**Ambiguity in Practical Application:** While Sen critiques rigid structures, he does not always offer clear alternatives for judicial and legal systems.

Despite these criticisms, Sen's approach remains highly influential in policy circles, particularly in human rights law, constitutional reforms, and economic justice.

## 7. CONCLUSION

*The Idea of Justice* is a transformative work that redefines how justice should be conceptualized and pursued. Moving away from abstract idealism, Sen offers a **pragmatic, inclusive, and dynamic framework** that prioritizes the reduction of injustice through democratic participation, human rights, and public reasoning.

For legal scholars, policymakers, and human rights activists, the book provides essential insights into how justice can be achieved in **pluralistic and diverse societies**. While it does not prescribe rigid institutional structures, its emphasis on **capabilities, democracy, and real-world impacts** makes it a valuable guide for those working to advance social and legal justice.

## REFERENCES

1. Sen, Amartya. *The Idea of Justice*. Harvard University Press, 2009.

2. Rawls, John. *A Theory of Justice*. Harvard University Press, 1971.