CHAPTER 1

A HISTORICAL PERSPECTIVE OF THE NOTION OF JUSTICE
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1 The notion of justice plays a dominant role in one's own social life as every individual so long as he or she is a member of a society or a social group or a social cluster. It is a general conviction of the many that the growth of any society is due to certain inherent contradictions existing in that society. Thus justice and injustice as polar concepts trade between the inherent contradictions.

The notion of justice is as old as society. Philosophers have tried to elucidate justice in terms of equality, virtue, impartiality, etc. In spite of their brave attempts to explain away the notion of justice, still the notion of justice appears to be unintelligible. The notion of justice presupposes morality. Also, it presupposes certain pressing claims of people living in a society or a social group, and justification of those claims by means of certain norms and rules.

The term 'justice' is derived from the Latin term 'justitia' (righteousness), which is roughly synonymous with 'fairness'. It is very near to the English word 'right'. Broadly speaking justice means the quality of being right
and fair. The notion of justice covers a wide range of social relations among the individuals living in a society. There is a saying which declares that justice is the sum total of all virtues. Justice has been analysed differently by philosophers, political thinkers, religious leaders, and sociologists. Moreover, the notion of justice has been changing from time to time depending upon the prevailing conditions of an era. What was considered to be just in one era began to be considered unjust in another. In the society of human beings, justice would also mean the fitting of various members in the over-all system. In this way a society is a dynamic social organism. Society as a dynamic social organism has many dimensions such as social, political, legal, economic, and moral. Therefore, the notion of justice can also be looked at from all these dimensions. In other words, there are types of justice such as (1) social justice, (2) political justice, (3) legal justice, (4) economic justice, and (5) moral justice. Let us look into these types of justice as pointed above.

1. Social Justice

Social justice envisages equal social opportunities to all the people belonging to various social groups irrespective of their caste, religion, creed, sex, language or place of birth, etc. It also tries to promote the view
that special attention should be paid to the weaker sections of the society to bring them to the main stream of social life. Not only that, social justice must ensure the eradication of social evils such as untouchability, child-marriage, etc.

2. Political Justice

Political justice demands that every individual who is a citizen of a given state has a right to take part in the political processes of that particular state in question. Such a justice allows every individual to exercise his franchise to elect a representative of his or her choice. To safeguard political justice, every elected individual is accountable to the people who elected him or her. Political justice presupposes certain fundamental rights such as right to freedom of speech, right to form associations, unions, and parties, etc.

3. Legal Justice

Legal justice presupposes non-discriminatory laws in the sense that there should be laws that are just and reasonable. Irrespective of caste, religion, creed, sex, language, state, and region, laws should be enforced on each and every individual as a citizen of the state in question. This results in equality among equals and inequality among unequals.
4. Economic Justice

Economic justice must ensure that the basic economic needs of the individuals living in a society are taken care of. The basic needs of every individual are food, clothing, and shelter. It is the responsibility of the state, as the guardian of the individuals living in that state, to provide these basic needs.

5. Moral Justice

Moral justice is the moral principle of a society. It begins with association and interdependence, and organization, which are practicable in a society. The essence of morality is universality. All types of justice aim at realizing moral justice within its range and its strength consists in the feeling that this is so. Moral justice presupposes certain fundamental rights of all types of justice. We can call it "universal justice". It is not a particular type of justice but is universal notion of justice. No doubt, we can say that all types of justice presuppose morality.

In order to understand Heller's notion of justice, it is necessary to have an idea of justice propounded by the thinkers like Plato, Aristotle, Hobbes, Locke, Rousseau, Kant, Marx, and Rawls.
Plato's View of Justice

To understand Plato's view of justice, it becomes necessary to analyse those traditional theories of justice which were discarded by him.

The Republic of Plato is concerned with the question "what is justice?" The great thinkers Cephalus, Polemarchus, Socrates, Thrasymachus, Glaucon, and Plato attempted to answer this question. We will make an attempt to analyse their views on justice.

Cephalus defines: "...justice as giving to every man what is due to him." His theory of justice is based on traditionalism and proverbial morality. This theory is repudiated by Socrates on the ground that it is not of universal application. To 'restore' weapons to a man who has gone lunatic is not justice, eventhough, theoretically his weapons are 'due' to him. Polemarchus develops his theory by giving a new meaning to the word 'due'. He means: "justice as consisting in doing good to one's friends and harm to one's enemies." Socrates rejects this theory too, as it is not justice that enables you to be good to your friends; but knowledge of things. That you may not be able to recognize your true friends from enemies because appearances are often deceptive. To do harm to anybody,
even to your enemies, is not in accordance with morality; hence it cannot be considered justice. In this context to quote Socrates' view:

Justice is something psychic, internal, absolute and immutable while any particular actions are external; and changeable.

Thus Socrates accords a special status to justice. For him justice is something eternal.

Thrasymachus, one of the later sophists, explains justice in the following manner:

I proclaim that might is right, and justice is the interest of the stronger .... The different forms of government make laws, democratic, aristocratic, or autocratic, with a view to their respective interests; and these laws, so made by them to serve their interest, they deliver to their subjects as 'justice', and punish as 'unjust' anyone who transgresses them .... I am speaking of injustice on a large scale; and my meaning will be most clearly seen in autocracy, which by fraud and force takes away the property of others, not retail but wholesale. Now when a man has taken away the money of the citizens and made slaves of them, then instead of swindler and thief he is called happy and blessed by all. For injustice is censured because those who censure it are afraid of suffering, and not from any scruple they might have of doing injustice themselves.

This analysis of justice given by Thrasymachus compares might with right. It identifies justice with laws, good or bad, of the state and not with morality. Thrasymachus' argument is two pronged. First, he stresses that justice is the interest of the stronger. In other words, sovereign is
just in fulfilling his own interest. If it were so, claims Socrates, then every individual tries to fulfill his or her own interests. Therefore, one may obey a law when he or she must, and disobey it when it clashes with one's own interests. This is not an acceptable position for a proper development of society. The ruler may not be the strongest. He may not always seek to fulfill his own interests. It is not the strong who is just, but it is the just who is strong. Right and justice cannot be compared with might because that would produce justice which is external and physical. Moreover, Socrates says that government is an art. It is the governed who realize the true art, but not the sovereign. Then Thrasymachus modifies his position and says that injustice is better than justice because the former carries wisdom, strength and happiness. Justice does not elevate human excellence. It places the individual under undesirable restraints. Socrates opposes this view by pointing out that it is justice that carries wisdom and happiness born of one's knowledge and limitations. Rulers are like shepherds and therefore justice is the interest of the ruled.

Now we move on to Glaucon's notion of justice. He relies on the argument of Thrasymachus and asserts that it is good to be unjust but bad to suffer injustice. Morality
is good because it is useful in securing certain external ends. All profits are on the side of justice. Man's actions are based on nature which requires injustice when one's actions are undetected and on convention which requires a mutual identification of rights and counterrights when one's actions are under revealing. To quote Glaucón:

"Justice is a sort of mean. It is an artificial thing. It is based on fear and is the interest of the weak."

Socrates asserts that justice is not conventional and external, but natural and internal, and describes the right conditions of human soul. Now we turn to Plato's view.

According to Plato:

... one man should practise one thing only, the thing to which his nature was best adapted;—Further, we affirmed that justice was doing one's own business, and not being a busybody;...

His view of justice consists that the will to concentrate on one's own sphere of duty, and not to interfere with the function of others. This habituation is in the heart of every citizen who does his duty in his allotted place. Justice is the stipulation of every other virtue of the state and grows with specialization of functions. The justice of the state is the citizen's sense of duty. Thus
Plato identifies justice with performing one's own duty without interfering in the affairs of others.

Aristotle's View of Justice

Aristotle in his book *Ethics* writes: "Unjust means either lawless or unfair; therefore just means either lawful or fair (equitable)." Here the terms justice and injustice appear to be ambiguous. The term 'unjust' is ruminated to characterize both one who disobeys the law and one who takes advantage of another, acts unjustly. Both law-abiding man and the fair man will be just. Thus just means lawful and fair; and unjust means both lawless and unfair. The unjust man takes more than his share to make a good fortune. Things are not always good for the individual, but they are always good in themselves. These prior goods are what human beings entreat for and try to attain, but this is wrong. They should entreat that what is good in itself.

The unjust man does not always select the larger share of things that are bad in themselves. He actually selects the lesser share but he is none the less observed as trying to get too much because 'getting too much' points to what is good. He is called unfair. The lawless man is unjust and the law-abiding man is just. It is clear that all lawful things are in some sense just because what is decreed for all the departments of life, pointing at the
common advantage either of all the citizens or of the best of them, or of ruling class, or on some other such foundation.

Both Plato and Aristotle regard justice as a virtue in action. Justice means that every member of a community should fulfill his moral duty towards the fellow-members of his community. Justice may be apprehended in a wider and in a narrower sense. In the wider sense, justice is recognizable with moral virtue and general excellence. It is composed of all virtues. Complete justice is the whole of moral virtue in social relationships.

Justice, in the narrower sense and political sense, has two subvarieties. They are: (i) distributive, and (ii) corrective justice.

Distributive justice lays stress on the proper allocation of office to each person according to his worth or capability. From the distributive point of view, every political constitution has its own standard of worth of distributive justice. In a democracy, the standard of worth is free birth; in an oligarchy it is riches; in an aristocracy it is virtue. Distributive justice distributes to every man his due according to his contributions to the society. It reduces conflict and confusion by counting
inequality of the equals or the equality of the unequals. It is recognizable with proportional equality that is a man's rights and awards must correspond to his social activities and contributions. On the other hand, corrective justice deals with voluntary commercial transactions like sale, hire, supplying of security, etc., and other things like offence of property and life, honour and freedom. Thus Aristotle categorizes justice into complete justice and particular justice. However, he believes that the complete justice is possible only in an ideal state.

Coming to the view of social contract theorists, there is a contract between the ruler and the ruled. The nature of justice is in keeping of covenants. This is particularly opted in the context of twentieth century notion of the rights of man. The notion of "Human Rights" has become increasingly important in the old liberal - democratic countries as well as in the socialist countries and in the new states. In every state there is (more or less explicity) a general political theory justifying the kind of society and the political institutions which succeed there. The problem of fitting a doctrine of human rights into the general justificatory theory is different in states with different general theories.
In the world today there are many kinds of justificatory theory but they all fall under either of the three types. They are:

(1) the individualist - liberal theory, whose roots are generally outlined back to Locke.
(2) the populist general-will theory, whose roots are in Rousseau; and
(3) the socialist theory, whose roots are essentially in Marx.

In each of these three theories there is a problem of fitting the modern notion of human rights. The individualist - liberal theory has no difficulty in considering the rights of life, liberty, and property. It is built largely on the assertion of these as the natural rights of the individual. But it faces some difficulty with regard to the modern notion of economic and social rights. The theories of Rousseau and Marx face little difficulty with the social and economic rights, but do not feel it so easy to accommodate the previous trilogy of natural rights of life, liberty, and property. Let us see how Hobbes, Locke, and Rousseau viewed justice as social contract theorists.
Hobbes' View of Justice

Hobbes is the fore-runner of the social contract theory. According to Hobbes, man by nature is selfish, contentious, mean, wicked, and non-rational. Since all men are equal, they desire more or less the same things. This leads to war of every man against every man. This is what Hobbes calls the state of nature. In that state of nature, holds Hobbes:

...the liberty each man hath, to use his own power, as he will himself, for the preservation of his own nature; that is to say, of his own life; and consequently, of doing anything, which in his own judgement, and reason, he shall conceive to be the aptest means thereunto.

Everyone is guided by his own reason. Every individual's right consists in his or her liberty to do anything with his or her own power. In this sense, "natural right" at best implies a treacherous liberty. It entitles a man to grasp everything that he wants. It is not a moral right. It is the capacity or power of holding things and is to be equated with might. In such a situation every individual must enter into a contract with the sovereign to safeguard his or her private property. The sovereign is not a party to the contract but the product of the contract. In this context to quote Hobbes:

... where no covenant hath preceded, there hath no right been transferred, and every man has right
to every thing; and consequently, no action can be unjust. But when a covenant is made, then to break it is unjust: ... is no other than the not performance of covenant. And whatsoever is not unjust, is just ... that justice is the constant will of giving to every man his own.

What follows from the above quotation of Hobbes is that justice lies in adherence to the contract. Sovereign cannot be unjust since the sovereign is not party to the contract and hence cannot be guilty of violating the contract. In this situation, to act justly means to obey the conditions of the contract.

Besides, any minority group which disagrees with the commands of the sovereign must eventually be suppressed by force. If such disagreement were permitted to exist, it might lead to internal rebellion. To permit opinions to succeed that run against the sovereign is to permit the existence of divided authority. This is incompatible with the radical premise upon which civil society is constituted similarly, the sovereign must always have the final word in adjudicating any disagreements among citizenry. Only in this way can peace be preserved within the social organization.

Locke's View of Justice

Locke's interpretation of "natural rights" of man is generally thought to be more clear than that of Hobbes'.
For Locke, the genuine natural rights of men are apparently clear. They are as follows:

(1) Individual's natural rights are presented as effective rights in the sense that others have a natural obligation to respect them.

(2) Individual's natural rights are more meaningful and more specific (for example, the right of private appropriation and the right of inheritance).

(3) Locke utilizes individual's rights to constitute a case for confined government, and to set up a right to revolution.

In this manner, Locke's rights are different from Hobbesian natural rights. Locke logically derives his natural rights from natural law: it is 'reason' that constitute rights and corresponding obligations whereas Hobbes' natural law is obtained from natural rights which are logically prior.

According to Locke: "The natural rights of man ... are to life, liberty and property." Locke asserts that natural right preserves one's life and it is the means of subsistence. And this right to life and the means of life is obtained from the need or 'strong desire' that every man has.
Liberty, according to Locke, is an exemption from the care of the law of nature which is a means to the realization of man's freedom. In other words, liberty consists in choosing the persons or goods as desired by the men within the allowance of those laws under which they are.

By equality, Locke means not mental or physical equality, but the equal right which every man has to his natural freedom without being subjected to the will or authority of any other man. Property comes when an individual changes the primitive community of ownership into individual possession. Individuals in the state of nature are conscious of these natural rights. Not only that, they honour these natural rights. No one should harm another in respect of his life, health, and liberty. The state of nature is to be recognized from the civil state. It is a common organ for the interpretation and execution of the law of nature. So every individual in the state of nature is the interpreter and the executor of the law of nature. Variety in interpretation leads to discrimination in standards of intelligence, and the wrong execution of the law of nature leads to confusion, and consequent insecurity of life and property. Thus it is necessary to substitute the state of nature by civil society. In civil society there would be a well known law acknowledged by all and
appealed by an impartial and authoritative judge (justice) whose judgement would be enforced by the state. Locke opines that natural rights are natural and inherent in the individual.

As explained by Locke, if rights are 'natural', then they should be eternal and non-varying, but rights vary. The reality is that rights are a gift of society. Rights are born of human reason and human needs. They are social rights. Thus Locke is wrong in saying that rights are natural.

Rousseau's View of Justice

Unlike Locke, asserts Rousseau: "Man was born free, and he is everywhere in chains." The individual is free in the state because he does not infringe his rights to an outside authority but to a corporate body of which he himself is a member. Any limitations on the liberty of the individual are self-imposed. Obedience to a law which we command to ourselves is liberty. According to Rousseau:

Liberty consists less in doing one's own will than in not being subject to that of another; it consists further in not subjecting the will of others to our own.... In the common liberty no one has a right to do what the liberty of any other forbids him to do; and true liberty is never destructive of itself....
The rights of liberty, equality, and property are rights of the citizen and not the innate and inherent rights of the individual. Liberty is civil liberty, and not natural liberty. Men are equal by law, and not by nature. Man in actual practice makes unfriendly only such of his power, goods and liberty as it is for the community to control but it must also be awarded that the sovereign is the sole judge of what is important. Rousseau stresses that the end of government is not only to protect liberty for the individual but also equality because there cannot be liberty without equality. The sovereign power cannot transcend the boundary of general conventions.

An individual is free in general will and in obeying the laws that follow from it because his real will is an organic part of the general will. He is free, not because he can do what he wills but because he is not subject to the will of another individual. He enjoys moral liberty based on justice and self-imposed law. Besides, Rousseau says as follows:

All justice comes from God, who alone is its source; and if only, we knew how to receive it from that exalted fountain, we should need neither governments nor laws. There is undoubtedly a universal justice which springs from reason alone, but if that justice is to be admitted among men it must be reciprocal. Humanly speaking, the laws of natural justice, lacking any natural sanction, are unavailing among men.
Moreover, says Rousseau, laws merely profit the wicked and injure the just since the just honour them when others do not do so in return. Hence, there must be a pact and positive law to unite rights with obligations and to direct justice to its object.

According to Rousseau, individuals are supposed to obey only those laws which represent the true rational interests of everyone. This is what he calls general will. To ensure that the general will is given impartial expression, all social inequalities should be curtailed. An awareness of common humanity alone guarantees one's own moral freedom.

Thus, the social contract theories of Locke and Rousseau have different interpretations of justice. Locke stresses the materialistic, individualistic and acquisitive side of justice, whereas Rousseau stresses the more idealistic, communitarian, and democratic side of justice.

**Kant's View of Justice**

Rousseau influenced Kant to a greater extent. Though Kant does not favour democracy, he believes in the principle of government by popular vote. Kant develops a notion of freedom which is radically different from his predecessors. For Kant every person in theory is a free,
rational agent who inhabits an ideal community of equality and reciprocity. However, men in their day-to-day affairs are governed by irrational, selfish inclinations that lead them to dominate one another. This conflictual dynamics of self inclination, believes Kant, leads to intellectual progress culminating in a lawful regime.

According to Kant, right is identical with moral freedom (innate right). Kantian individualism is witnessed by the importance he adheres to the rights and duties of the individual. Right presupposes duty. Every right is correlated to some duty. Liberty is a right belonging to the individual in virtue of his humanity. Liberty consists in the power to do anything which inflicts no injury on one's neighbour. The individual has the right to property because property is must for the utterance and extension of human personality. Property is a deduced – right and not a natural right as right to freedom is. Each and every right is not merely a privilege but also an obligation, that is nothing but duty. A right is less important than a duty. Duty is a categorical imperative of man's conscience. An individual has duties towards himself, other individuals and towards the state. For Kant, justice is not a quality of social arrangements but a human will (will as a faculty of determining oneself to action).
Kant cogitates that the fundamental universal principle of justice can be derived from the following considerations:

1. Justice is identified with those relationships in which one man can impress the well-being of another by his conduct. A man can be just or unjust only in his behaviour to others.

2. The notion of justice has nothing to do with the connexion between the will of one man and the wishes or needs of another (i.e. laws of justice are not the acts of benevolence or charity), but it is something to do with the relation between one man's will and the will of another. It regards those intentional actions which may affect the power of others to act according to their choice.

3. Justice is not concerned with its matter, but only with the form of the will in estimating whether an action is just or unjust. We ignore such questions as whether it will help the agent to attain some objective of his personal benefit, and inquire only into its formal properties.

Kant holds that justice is the sum total of the stipulations under which one person's will can be added with another's
under a universal law of freedom. The universal law of justice is:

Act externally in such a way that the free use of your will is compatible with the freedom of everyone according to a universal law.

Kant stresses that justice itself does not need that we appropriate it as a maxim. As long as one does not in fact disobey a man's freedom, it is not unjust of him to be indifferent to his freedom or even to desire to disobey it. These considerations may be morally wrong, but they are not unjust.

Kant tries to bifurcate the notion of justice on the basis of Roman law. He tries to distinguish 'general division of the duties of justice' from the 'general division of Justice'. The first class consists of the following formulae as put forth by Roman Jurist, Ulpian:

1. Be an honourable man,
2. do no one an injustice, and
3. enter into a society with others in which each person can obtain and preserve what is his own.

On the basis of these three doctrines, Kant divides the system of duties into internal, external and connecting duties. The imperative of duty, Kant says: "Act as if the
maxim of thy action were to become by thy will a universal law of nature."

Under the second class, Kant captures the notion of 'justice' in its two senses, namely, 'law' and 'rights'. In the sense of law, justice is that for which an external legislation is plausible and is called external law. The external laws, according to Kant, can be divided into natural laws and positive laws.

A natural law is one which relies on a priori principles. A positive law is one which follows from the will of the legislator. The natural law is called 'private law' and the positive law is called 'public law' or 'constitutional law'. The whole work of The Metaphysical Elements of Justice is categorized under these two heads, namely, private law and public law. In the non-juridical state of affairs private laws belong to men. All public laws must follow from the private laws, because the private laws serve as the ground of the authority of the legislator.

Kant bifurcates the common category of the law into natural law and the civil law. He also calls the first private law and the second, public law. Krieger calls them 'natural' natural law and a 'civil' natural law. Private law is concerned with the rights and duties of
individuals such as the law of property, of contract, family law, and all the matters that result in civil actions. Public law comprehends constitutional law, criminal law, and international law.

Justice in another sense means "right". Generally, right means the power to create obligation or duty. Particularly, it means that: "... the restriction of each individual's freedom so that it harmonises with the freedom of everyone else." This definition is relied on the presupposition that rights and duties are connected to each other. What is a right of one man becomes a duty of another. Only rational beings can have right. Non-rational beings can have neither rights nor duties. Serfs and slaves have only duties but no rights. God has only rights but no duties. Only men have both rights and duties.

Kant classifies rights into natural rights and positive rights or private rights and public rights. The notion 'natural right' has defined differently by different philosophers. To Kant, right is 'natural' in the sense that it is a quality of pure reason or a product of pure reason. It is a notion of reason. Accordingly, it is not an appearance but a notion of understanding and denotes the moral property of actions. These actions belong to the individuals in themselves. In other words, they rely on the
will of individuals as individuals. So, they do not want any external announcement. In this sense they are called private rights.

Natural rights (or private rights) are classified by Kant into innate rights and acquired rights. According to Kant:

... an 'innate right' means one that belongs to everyone by nature, independently of any juridical act. On the other hand, an 'acquired right' requires such an act.

As far as it concerns us, there is only one innate right, namely, freedom. Like Hobbes and Rousseau, Kant identifies natural right with freedom. Unlike Locke, Kant in line with Rousseau's doctrine says that the state does not create any rights, but it only preserves and protects the natural right. It possesses and extends natural right of man. This innate natural right belongs to every human being by virtue of his humanity. From this 'original' right only all other rights are obtained. By saying this Kant has arranged several rights like equality, justice, etc., which were considered as innate by the seventeenth and eighteenth century thinkers. Indeed, all other rights are not different from this 'innate right'.

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On the contrary, acquired rights, holds Kant, do not belong to us by virtue of our humanity. They can be regulated by the law. Acquired rights can be divided into:

1. a (corporeal) thing external to me;
2. the will of another with respect to a particular act;
3. the status of another in relation to me.

These acquired rights can be divided into (1) real right, (2) personal right, and (3) real personal right. Politics is made up of acquired rights only.

Kant calls his analysis of acquired rights a 'transcendental deduction'. His argument of deduction is that acquired rights demand objective validity. But their objectivity presupposes an a priori principle of right. Hence, the principle of right is exhibited to be a necessary stipulation for the validity of the particular acquired rights. Kant also believes that this classification of rights into innate and acquired rights serves the practical purpose of determining any controversy over acquired rights. Thus Kant tries to equate justice with right.

Marx's View of Justice

Unlike Kantian notion of justice, Marxian notion of justice is rooted in the economic freedom of the
individual. According to Marx, society is ridden with class contradictions. He recognizes the existence of bourgeoisie class (haves) and proletariats class (have-nots). For him, justice means economic justice.

In a capitalist society, labourers are exploited. Labourers are getting less wages than their actual wages. Their subsistence - minimum is only a fraction of the value created by them. This fraction is becoming smaller and smaller with the extension of machinery. The amount of surplus value (labourer is the only legitimate source of all value) pocketed by the capitalist may be calculated as follows. Suppose a labourer works 10 hours a day but only 6 hours work is needed for his or her subsistence wage. The surplus value is equal to 4 hours work of the labourer. The surplus value is taken by the capitalist.

The capitalist can control the labourers more effectively in large-scale industrial units than in small ones. In other words, large industrial concerns bring more benefit to the capitalists than the smaller ones. There is, therefore, a progressive tendency on the part of capitalism to bring about industrial combines and industrial consolidation. This means progressive concentration of capital and industry in the hands of fewer and fewer people. If the
number of capitalists, to Marx, is decreasing then the number of ill-paid workers is increasing. The rich grow richer and the poor grow poorer. This exploitation of labour by capitalists embitter the relation between the two and compels the labourers to organize themselves and fight for their right. This means class struggle.

Marxian theory of class struggle is essentially economic and political. It also highlights the class-dominated character of the state. Every state shows the domination of a particular class over the other. This is true not only in the capitalist society but it also holds good in the quasi-democratic states of the capitalist world. According to Marx: "The State ... is an executive committee for administering the affairs of the ruling class as a whole."

Marx is convinced that most of the political struggles of the past were radically class struggles. The transformation of society (of the system of property, and of the superstructure), he believes, is the result of class conflict.

There are three major features of the Marxist notion of state: (1) the state exists only in those societies which have class distinctions; (2) the state is an
instrument of class domination; (3) if and when a society can be free from class distinctions it will have no need of the state. Abolition of the state has to be preceded by the abolition of private property, and property-based class antagonism. Such abolition of the state involves three distinct steps. They are: (1) the overthrow of the bourgeois state by revolution, (2) the establish of the dictatorship of the proletariat, and (3) the withering away of the proletariat state. Marx recognises the plausibility of the overthrow of the bourgeois state without resorting to any violent revolution.

Marx attacks the nations of 'equal rights' and 'fair distributions' as 'obsolete verbal rubbish'. This conclusion Marx draws from his analysis of the 'contribution principle' - the claim that labourers have a right to the products of their labour. Since everyone is measured by an equal standard, the contribution principle gives people an 'equal right'. Yet, some people have greater natural talents, so this equal right becomes an 'unequal right for unequal labour'. In other words:

... it ... recognizes unequal individual endowment and thus productive activity as natural privileges. It is, therefore, a right of inequality like every right. Right by its very nature can consist only in the application of an equal standard; but unequal individuals ... are measurable only by an equal standard in so far as they are brought under an equal point of view ....
According to Allen Wood, the above mentioned quotation shows that Marx dislikes not only the notion of justice but also the concept of moral equality underlying it. On Wood's view, Marx was 'no friend to the notion that 'equality' is something good in itself' and he was not 'a believer in a society of equals'.

Marxian argument here does not deny the view that the community should treat all its members as equals. What he denies is that the community should do so by implementing a theory of juridical equality. In the above quoted passage, Marx conforms to a principle of equal regard, but denies that any 'equal right' ever captures it, because rights work by defining one limited viewpoint from which individuals are to be regarded equally. He denies the notion of equal rights, not because he was not a friend to the notion of treating people as equals, but precisely because he thought rights failed to live up to that ideal. Indeed, the notion of moral equality is radical to Marxian thought. Thus, for Marx, economic justice alone can be considered as a true form of justice.

Rawls' View of Justice

If Marx considers justice in terms of economic freedom, Rawls considers justice as "fairness". It is an
institutional arrangement which will profit everyone impartially, and we can attain it by imagining a social contract made in ignorance of one's personal situation.

The notion of justice as fairness is articulated in two fundamental principles of justice. The first principle is called liberty. Liberty means a state of being free from captivity, slavery, imprisonment, and government by others. If anyone is dispossessed of liberty, everyone is threatened by the plausibility of being that dispossessed plausibility. Rational negotiators will insist on maximizing liberty for all. The first principle will lead to an acknowledgement that actions engaged in by one person may well restrict the liberty of another. The principle of liberty thus cannot be a reasonable demand. Rather the liberty of each must be forced by the need to take care the liberty of each. A more distinct principle of liberty Rawls means in two ways. They are:

(1) The first kind of liberty (justice) is as follows:

   each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others.

(2) The second kind of liberty (justice) is as follows:

   social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone's advantage, and (b) attached to positions and offices open to
all.

The second kind of principle is plausible under stipulations of fair equality of opportunity.

The principles radically apply to the fundamental form of society. They are to rule the assignment of rights and duties, and to arrange the distribution of social and economic advantages. As their formulation suggests, these principles presuppose that the social form can be bifurcated into two more or less distinct parts, the first principle applying to one, the second to the other. They differentiate between those aspects of the social system that define and secure the equal liberties of citizenship and those that specify and determine social and economic inequalities. Roughly speaking, the radical liberties of citizens are political liberty (the right to vote and to be eligible for public office) together with freedom of speech and assembly; liberty of science and freedom of thought; freedom of the person along with the right to hold (personal) property; and freedom from arbitrary arrest and seizure as defined by the concept of the rule of law. Since citizens of a just society are to have the same radical rights, these liberties are all wanted to be equal by the first principle of justice.
The second principle of justice applies to the distribution of income and wealth and to the design of organizations that make use of differences in authority and responsibility, or chains of command. When the distribution of wealth and income need not be equal, it must be to everyone's advantage. At the same time, positions of authority and offices of command must be approachable to all. One applies the second principle by holding the position open, and arranges social and economic inequalities so that everyone profits.

These two principles are to be arranged in a small order with the first principle prior to the second. This means that the institutions of equal liberty wanted by the first principle cannot be justified by greater social and economic advantages. The distribution of wealth and income must be consistent with both the liberties of equal citizenship and equality of chance. A theory of justice, according to Rawls, relies upon a theory of society.

As the negotiators consider the two principles of justice, they will apprehend that conflict is plausible between them. It is plausible that a restriction of the liberty of some individuals may constitute an inequality that satisfies the second principle of justice. It may
result in an increase of goods that profits everyone. But Rawls rules out such inequalities, arguing that the negotiators will give the first principle an absolute priority over the second principle of justice.

This historical perspective of the notion of justice will enable us to understand the notion of justice as envisaged by Agnes Heller.

NOTES

1. The term "notion" is used interchangeably for the terms concept, and idea.


3. Ibid.

4. Ibid.


10. Ibid., p.156.


13. Ibid., p.32.


18. Ibid.

19. Ibid., p.143.

20. Ibid., p.144.

