

Individuals may then be not a collection of static preferences, but a collection, in Davis's view, of individual capabilities responding to evolutionary forces. Stated in this way, the individual again disperses into multiple selves, leaving the atomistic definition of individuation unsatisfactory. The question then becomes can a self-organized individual be recovered? Perhaps not if different capabilities pull individuals in different directions. As such, an individual may be pulled by different potential capabilities or different identities in different situations leading to trade-offs. In this way, Davis makes the link to identity economics, social issues of race discrimination, and normative analysis. On this last avenue, the point is made clear that without a clear notion of the individual, or a clear notion of which utility to favor, policy prescriptions and welfare statements are deeply complicated.

The reading of this text provides the reader with a novel look into the philosophy of economic constructions and their relationship with recent developments in behavioral economics. The author clearly demonstrates a depth of reasoning and care for the subject that should make the text of interest to a broad audience. The most compelling portion of the text, however, is often between the lines. Welfare statements for nonatomistic individuals are wrought with pitfalls and many constructions of individualism face nonatomism in the view of Davis. Recognizing this challenge, how then to move forward? Recent work demonstrates that welfare statements can potentially be made with choice data alone, obviating some concerns. Of course, even with this caveat, the ability to parse definitions of individuation and individuals generates an important foundation for understanding the new economics of identity.

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Amartya Sen's vision of justice is agreeably humane. He sees people as developmental creatures whose well-being depends on achieving

their potential in healthy and satisfying ways. This reflects something of an Aristotelian cast of mind, at least with respect to Sen's picture of the structure of human psychology. Whereas utilitarians tend to focus on preference-satisfaction and egalitarians typically traffic in arguments about the distribution of resources, Sen operates with a more fully rounded idea of human well-being. But, as with other neo-Aristotelians like Alasdair MacIntyre (1984), Sen resists Aristotle's view that there is a fixed list of human purposes or virtues. Rather, he thinks that justice is to a considerable extent about enabling people to develop and fulfill their own capabilities. This means that, although he has strong egalitarian impulses and often recommends antielitist policies, Sen is strongly committed to the idea that human freedom lies at the core of justice. Despite his antipathy for preference-satisfaction as a moral yardstick, he resists appeals to externally identified "interests" that might trump an agent's sense of his or her priorities and purposes (pp. 376-79).

Sen's vision of a better world is one in which more people have the freedom and wherewithal to achieve their best potential, and he thinks that a large part of the task of a theory of justice is to identify obstacles to realizing that vision—and to point the way to their removal. He has two main goals in this book. The first is to provide a synthetic account of arguments about justice that he has been developing over several decades. The second is to establish this view as superior to John Rawls's *A Theory of Justice*, which Sen rightly judges (pp. 52-53) to be the most important work on the subject in a generation.<sup>1</sup> The two projects are inextricably linked because many of Sen's major claims are defined as alternatives to—or at least against the backdrop of—Rawlsian claims that he finds wanting. My own philosophical priors and views about justice are closer to Sen's than they are to Rawls's, but I nonetheless think that Sen fails on both counts. His arguments against Rawls are less than telling and, given what he has said elsewhere, Sen's defense of his own account

<sup>1</sup> Rawls originally published *A Theory of Justice* in 1971, but he had been developing the central ideas in journal articles for over a decade before that. He continued refining—and indeed revising—them in articles and lectures, leading to the publication of a substantially revamped second and final edition in 1999.

of justice is surprisingly undeveloped in *The Idea of Justice*.

Sen has long—and rightly in my view—been concerned to get political theorists to focus on important questions of justice in the real world. Part of why he resists what he describes as Rawls’s “search for transcendental justice” (p. 101) is that it can divert attention to difficult (perhaps unanswerable) questions that are irrelevant to identifying severe injustices and deciding what to do about them. He captured this vividly in a lecture (Sen 2009) with the pithy image of a man locked in an unbearably hot sauna who calls urgently to a friend outside to lower the temperature, but elicits the response that he must be told the ideal temperature before acting on the request. A neophyte might wonder whether Sen was making a point about poor judgment in choice of friends, but anyone who has been raised on the steady diet of abstruse meta-debates, thought experiments, and contrived examples that make up so much professional political philosophy will know what he was getting at.

This review mirrors the geography of Sen’s book. I start with his critique of transcendental political theory and the comparative approach that he proposes in its stead. I contend that he overstates his differences with Rawls on matters of both method and substance, and that his alternative appeal to a comparative outlook cannot do the philosophical work that is needed to sustain his vision of justice. Really his argument depends heavily on his appeals to a version of Adam Smith’s impartial spectator, but Sen fails to deal with obvious criticisms of it and he deploys it selectively to legitimate positions that he finds congenial. Last I turn to his claim that democracy is an important vehicle for advancing the cause of justice. This is a significant contribution, but Sen’s account is marred by lack of attention to the dynamics of democratic politics. As a result, he misses opportunities to advance our understanding of when and how democracy is likely to serve the cause of justice.

#### *Against Transcendental Theory*

Rawls did not use the term “transcendental” to describe his enterprise, but Sen deploys it to capture its Kantian flavor. Traditional social contract

theorists like John Locke had construed political institutions as the result of a foundational agreement made by people in order to protect natural rights that were believed to be rooted in natural law. Individuals were seen as having abandoned the state of nature to avoid the costs of protecting those rights themselves, thereby enhancing their freedom and security. Rawls was writing in a different age, when agreement on the existence of natural law and natural rights could no longer be assumed and in which decades of mordant criticism had dispatched the idea of a prepolitical state of nature from serious consideration by theorists of justice.

Rawls’s Kant-inspired move was intended to revive the social contract tradition while eliding these well-known difficulties. Conceding that there had never been a social contract, he nonetheless asked what contract people might buy into if they were in a position to do so. And, rather than prepolitical people, he asked actual people—his readers—to consider what they thought people would choose behind a veil of ignorance that shielded them from knowledge of their age, sex, race, IQ, physical prowess, aspirations, and other specific facts that would allow them to bias things in their favor. Stripped of such knowledge, people would be constrained to reason in general terms. In this way, universalizability would replace natural law as the standard for evaluating political institutions.

Sen is skeptical that people could ever be induced to agree on a theory of justice in this way. Moreover, he thinks it is unnecessary for them to try to do so in order to tackle some of the most pressing matters of justice in the real world. He observes that being persuaded that the Mona Lisa is the best painting in the world, or that Mount Everest the highest mountain, is neither necessary nor perhaps even helpful in adjudicating the relative merits of a Van Gogh and a Picasso, or the relative heights of Kilimanjaro and Mount McKinley (pp. 101–02). These are, to be sure, vivid cautions; and Sen’s impulse to focus our critical energy on serious injustice is deeply congenial—at least to me. But how do Sen’s observations capture what differentiates his project from Rawls’s?

Rawls’s commitment to ideal theory, as he called it, had three distinctive features: he thought that

we should reason about justice under relatively favorable conditions; he thought that we should mostly ignore enforcement problems until we are clear about what justice requires; and he thought that, if we do this, we will be able to determine which of the various theories of justice on offer is best. Specifically, he argued that, behind his veil of ignorance, people would embrace a system guaranteeing three things in declining order of importance: the most expansive basic freedoms that can be given to all, equality of opportunity, and limits on inequalities gearing them to the benefit of the least advantaged. This scheme would be chosen over the going alternatives, providing an Archimedean standard that we can take to our actual “second best” world to see how it measures up and where it needs improvement.

Rawls’s focus on relatively favorable conditions was meant to restrict the focus to societies that have reached a level that he described as “moderate scarcity.” He assumed that people are not so overwhelmed by hunger that they cannot reason, and he exempted from consideration failed states or societies facing chronic poverty or famines—which he supposed should be evaluated by reference to different distributive principles than those he defended. Sen has written usefully elsewhere (1999) about the role of democracy in combating famine, and he restates those arguments here (pp. 338–48). Beyond this, he does not challenge Rawls’s focus on moderately favorable conditions, so I do not pursue that issue here.

Sen also has little to say about Rawls’s bracketing of compliance questions, perhaps because Sen himself pays scant attention to them in developing his own views. Thus while he argues for a view of justice in which people have priorities other than “the single-minded pursuit of our own well-being” (pp. 18–19), he has virtually nothing to say about how that might be sustained in the real world. For instance, in the course of defending the notion that having the power to mitigate an injustice brings with it the obligation to do so, Sen cites with approval Gautama Buddha’s optimism that people can recognize such claims on the grounds that a mother embraces a responsibility to her child “because she can do things to influence the child’s life that the child itself cannot do” (p. 205). Like Buddha, Sen is encouraged

by this observation to opine that humans might recognize obligations to weaker people and other species “because of the asymmetry between us,” rather than from some expectation of benefit. Yet the mother–child example ignores the relative strength of familial ties that foster expectations of reciprocity on the part of adult children toward elderly parents, not to mention a mother’s genetic interest in her offspring and close relatives (W. D. Hamilton 1964). These factors render the example a poor basis for the claim that people can be counted on to act voluntarily on obligations when they have nothing to gain.

The only other example Sen discusses is also less than encouraging. This concerns the third century B.C. Indian emperor Ashoka who weakened the prevailing system of institutional rules, punishments, and incentives and disbanded the army, relying instead on Buddhist-inspired exhortations to his people to reflect more and behave better. Ashoka was, in many ways, an admirable figure who liberated slaves and indentured laborers, but his vast empire collapsed shortly after his death—scarcely an advertisement for his approach to achieving compliance. Indeed the real puzzle is why his empire did not fall apart sooner. As Sen admits, commentators have concluded that this was at least partly because Ashoka failed fully to dismantle the administrative system of disciplined rule that he inherited (see Bruce Rich 2008, pp. 133–36). Sen speculates that another likely factor was the “awe in which he [Ashoka] was held by the people at large” (pp. 75–77). One could debate whether there is a way to ensure that great leaders will come to power when they are needed, but it is beside the point here.<sup>2</sup> If Sen is right about that Ashoka’s awe-inspiring personality held things together during his lifetime, this also militates against Sen’s hope that people can be counted on to comply with obligations that are neither in their perceived self-interest nor backed up by coercive institutions—simply out of a sense of moral obligation.

<sup>2</sup> I am inclined to agree with Madison in Federalist #10 that institutions are best designed on the assumption that “enlightened statesmen will not always be at the helm” (Alexander Hamilton, James Madison, and John Jay 2009, p. 50).

For all its infirmities, Rawls's original position was at least intended to align self-interested calculation with what he saw as the demands of justice by asking people to reason about what rules they would agree on if kept in ignorance about their particular circumstances, values, and ambitions. And while it is true that Rawls says that in a just society people can be expected to behave reasonably—in accordance, that is, of what justice requires—he is careful, as Sen notes (pp. 68, 79–80), to say that this depends on their developing the expectation that others will behave in a like fashion. One could read this as conceding that, in the real world, behavioral adaptation will be necessary for people to live in accordance with what justice requires, which is Sen's position.

Alternatively, one could read Rawls, as I am inclined to read him, as following the logic of a base-closing commission. Congress binds itself in advance to accept the results of the commission charged to decide which military bases to close and it insulates the commission from constituency lobbying—concededly a fair procedure. But everyone knows that the government will have to enforce the results after the process is complete, when Representatives of districts that have not fared well will be looking for ways to defect. In a like fashion, I read Rawls's assumption on this score to be that, once the principles of justice have been accepted as just behind the veil of ignorance, it is legitimate for the government to enforce compliance with them. Otherwise his requirement that it is a condition for expecting reasonable behavior of people that they, in turn, may legitimately expect others to behave reasonably, cannot be met. After all, there is no analog, for Rawls, of Marx's "withering away of the state"—even in a perfectly just society. This might be an unduly charitable reading of Rawls, but, even without it, nothing Sen says gives him an edge on the compliance front.

This leaves Sen's claim that what differentiates his approach from Rawls's is his use of comparative reasoning rather than a transcendental deduction designed to come up with a perfect account of justice. Sen insists that, if we adopt his comparative approach, we need not settle every question about justice to settle any question about justice. As his examples of paintings and

mountains suggest, we can work with incomplete orderings. But there is less at stake here than meets the eye.

Notice, first, that Rawls deployed both comparative reasoning and incomplete orderings in arguing for his principles of justice. His goal was to make the case that, behind the veil of ignorance, rational people would choose his account of justice over such going alternatives as perfectionism and, most importantly, utilitarianism. Rawls sought to do this by showing that, from the standpoint of the most adversely affected person, the principles he advocates would be more appealing than the others. It follows a fortiori that, if someone could show that some hitherto unexamined principle would do even better than his from that point of view, Rawls would endorse the new principle. So it is wrong for Sen to say that Rawls purported to offer an account of "perfectly just institutions in a world where all alternatives are available" (p. 11). When Rawls (1999, p. 226) characterized his principles as procedural expressions of the categorical imperative, he was just describing the standard by reference to which competing principles should be evaluated—to wit, one that requires endorsement even by those most adversely affected by the operation of those principles. He was not claiming to have set forth a transcendental deduction of the principles themselves.

Moreover, Rawls has been condemned in the literature for letting this case depend on partial orderings. He famously equated the standpoint of justice with that of the most adversely affected representative individual due to his assumptions about grave risks. Rawls was enough of a realist to acknowledge that there may be no relationship between the level of economic development in a country and the condition of people at the bottom. This meant that, even under the relatively favorable conditions of moderate scarcity about which he was writing in *A Theory of Justice*, for a given individual this condition might be dire (Rawls 1999, pp. 134–35). Given that you might turn out to be one of those people once the veil of ignorance is lifted, you had better be concerned about them. Accordingly, Rawls reasoned that behind the veil of ignorance it makes sense to insist that departures from equality operate to the advantage of the people at the bottom.



As Sen is aware (pp. 103–04), this insistence opened Rawls to the criticism that protecting people at the bottom might come at a considerable cost to others, even others who are quite badly off. Rawls tried to blunt the force of this criticism by suggesting that helping people at the bottom would have positive externalities throughout the system, a kind of multiplier effect that would benefit everyone. But he acknowledged that the ripple effects posited by his account of “chain connection” might not occur in fact, maintaining that in that eventuality he would nonetheless stick to his difference principle (Rawls 1999, pp. 70–73; Ian Shapiro 1986, pp. 218–34). In effect this means that Rawls’s argument for the difference principle rests on a partial ordering in just the same way that Sen’s does when he maintains that justice requires intervention in the face of famine regardless of the costs of that intervention to others.

In short, when Rawls (1999, pp. 8, 68, 215, 302, 309) speaks of a perfectly just society, this is not a world without conflict, scarcity, or (unlike Sen!) self-interested people. It is a world that operates to the benefit of the least advantaged whose condition might be so dire that failing to protect them would be irrational for someone who might turn out to be one of them. In making that case, Rawls depends heavily on comparative reasoning and incomplete orderings, with the result that there is a good deal less disagreement between him and Sen than Sen seems to realize. Indeed, Rawls (1999, pp. 234–42) goes so far as to declare himself agnostic between capitalism and socialism on the grounds that it is unclear which of these systems, or possibly some hybrid, best meets the requirements of justice. Thus when Sen advocates a comparative evaluation of economic institutions (“preferring a greater—or indeed lesser—role for the free market” as an alternative to Rawls’s alleged “transcendental search for the perfect package of social institutions” (footnote 6) he is positing a distinction where there is no difference.

### *Sen’s Comparative Theory*

If Sen’s methodological differences with Rawls are overdrawn, what of his more general complaint that political philosophers are too often

preoccupied with questions that divert attention from important matters of justice? It is easy to resonate with the complaint, but Sen’s various metaphorical illustrations of what he takes to be at stake make it hard to pin down just what he thinks is wrong and, more important, how his approach addresses the deficiencies that he identifies.

Notice that Sen objects to two different activities that he thinks are a waste of time. The first, reflected in the examples of the sauna and the mountain altitudes, concern trivial but not unanswerable questions. Presumably there is an answer to the question what temperature the person locked in the sauna would find most comfortable, and it would be possible to record the exact height of every mountain on the planet (indeed, this has surely been done by now). Sen’s point is that, for many purposes, we just don’t need to know the answer—it amounts to worrying about things three points to the right of the decimal when the problem at hand is to its left. When billions live in poverty, debating whether an addiction to plover’s eggs and pre-phylloxera claret is a disability that merits compensation gives political philosophy a bad name.<sup>3</sup> But how does Sen’s call for a “comparative” approach help?

Aside from a small number of obvious cases such as slavery and victims of famine, Sen has virtually nothing to say about how to make the comparisons that yield the judgments we should care about. Thus while he is convincing that we should not regard it as indicating the infirmity of a theory that it cannot tell us which out of a 39 or 40 percent tax rate is superior (p. 396), nothing in his account supplies the basis for distinguishing between, say, a 35 percent top marginal tax rate and a 70 percent one. As this example indicates, Sen’s scorn for fussing over small distinctions also fails to capture what is at stake between him and Rawls, since Rawls does not fuss over them either. It is true that Rawls never told us how progressive the income-tax code should be (or, indeed, whether we should rely on

<sup>3</sup> This is not Sen’s example, but it might as well have been. See Kenneth J. Arrow (1973, p. 254), Ronald Dworkin (2000, p. 49), G. A. Cohen (1989, pp. 1923–24), and Rawls (1993, p. 185).

income taxes at all) but, unlike Sen, he supplies a criterion to decide the matter. The optimal tax rate for Rawls is whatever rate operates to the greatest benefit of the least advantaged, and it is up to the economists and policy wonks to figure out what that is. Adapting Sen's sauna analogy, a person paying a 70 percent tax rate might well be inclined yell that it is "much too high!" and quickly lose patience with someone who insisted on being told what the optimal tax rate is before agreeing to a cut in their rate. But that impatience would scarcely amount to a compelling reason to reduce her taxes. Sen's real contention is that we should address the most compelling injustices in the world first, yet he has surprisingly little to say about just what makes a claim compelling, or how this is illuminated by "comparative" theory.

Sen's example of the Mona Lisa and other artworks puts a different set of issues on the table because it might be that a group of people who agree that the Mona Lisa is the greatest painting of all time will never agree on the relative merits of a Van Gogh and a Picasso. Their conceptions of what constitutes artistic excellence might just happen to overlap only concerning the Mona Lisa. Here the issue is not preoccupation with trivial but answerable questions that is presumed to be wasting people's time, but, rather, preoccupation with questions to which there is no answer even in principle. Again, while preoccupation with such questions is an activity that is easily condemned, it is hard to see how Sen's call for comparative political philosophy resolves, or even mitigates the difficulty.

Sen spends a good deal of time worrying about the problems for justice that are presented by incommensurable values. To illustrate this, he supplies the example of trying to decide which of three children should get a flute: Anne, the only one who knows how to play it; Bob, the only one who is so poor that he has no other toys; or Carla who made the flute. Sen reasons that a utilitarian would likely give it to Anne, an egalitarian would give it to Bob, and a libertarian would give it to Carla. He returns to this example repeatedly, which he takes to illustrate the fact that there is no compelling way to choose among appeals to happiness, economic equity, or entitlement to the fruits of one's labor (pp. 14, 201).

Some of the time Sen's worry seems to be that, because different theories rest on incommensurable values, their protagonists will be unable to agree on the right course of action in a given situation. But at other times the problem seems to be one of intratheoretical indeterminacy. Thus he notes that a utilitarian case could be made for giving the flute to Bob or Carla if diminishing marginal utility or incentives are taken into account (pp. 13–14). The same could be said of the egalitarian and libertarian arguments, although he does not say so. An egalitarian might give it to Anne on the grounds that giving all three the opportunity to enjoy hearing good music matters more than giving Bob an instrument he cannot play, or to Carla on the grounds that "from each according to her ability to each according to her work" is a sound socialist principle when no exploitation is involved. Alternatively, the egalitarian might make them share it. The libertarian might think that Ann or Bob should get the flute if Carla stole the raw materials or the tools she used to make it from either of them, or if she is a bully who they fear will jab them in the eye with the flute—the child's equivalent of a Nozickian "independent."<sup>4</sup>

I was hoping that Sen would eventually deploy the flute example to display the attractiveness of his capabilities-based approach to justice. He never attempts this however; perhaps because it, too, is compatible with giving the flute to any of the children. Is it more important that the capability for flute playing be realized (give it to Anne), or to reward the person with the capability for flute making (give it to Carla)? Or maybe it would be better to give Bob the flute, since Anne and Carla have already developed their capabilities and giving it to Bob might motivate him to learn how to play it.

<sup>4</sup>Drawing on the welfare economics literature on compensation from Kaldor and Hicks to Scitovsky and Samuelson, Robert Nozick (1974) argued from libertarian premises that the fear generated by "independents," who reject the prevailing order, is an externality that can be mitigated if they could be compensated for the rights violation involved in removing their capacity to threaten, but everyone else would still be better off than they would have been living in fear of the uncoerced independents. For discussion, see Shapiro (1986, pp. 169–76).

Sen emphasizes that it is the opportunity to realize capabilities (as distinct from whether they are realized in fact) that is vital (pp. 235–37), but that helps little here. Does it matter more that people have opportunities to realize existing capabilities or to develop undeveloped ones? Should we equalize the number of capabilities people have the chance to develop or perhaps the proportion of their capabilities that they can realize? Are some capabilities more important than others? Should the overall goal be to minimize unrealized capabilities? Does it matter if one of the children could be a better flautist than the others? What, if any, interpersonal comparisons are sanctioned in making the relevant judgments? Readers who have found Sen's earlier formulations of his capability-based approach appealing but undertheorized will be disappointed that he did not take the opportunity to develop it more fully in this book.

Sen acknowledges that his plural conception of human capabilities (which would presumably range over the capabilities to play music, enjoy toys, or build musical instruments in the example at hand) runs into questions about incommensurability (pp. 239–41), but says it is an open question how difficult they will be to resolve, concluding that the “main task is to get things right on the comparative judgments that can be reached through personal and public reasoning, rather than feel compelled to opine on every possible comparison that could be considered” (p. 243).

But Sen does not tell us how to get the comparative judgments right, or even how to think about them. He never tells who should get the flute. The closest he comes is to say that maybe there will be some convergence of prescriptions—if Carla turns out also to be the poorest child or the only one who knows how to play the flute or if Bob's poverty “is so extreme, and his dependence on something to play so important for a plausible life, that the poverty-based argument might come to dominate the judgment of justice” (pp. 396–97). Changing the relative circumstances of the players is in effect to dissolve the tensions the example was intended to create—solving the problem by definition. In any case, plausible as the notion that extreme poverty trumps other considerations might be, why would

anyone think an impoverished child's life is critically reliant on having a flute to play—not least when he lacks the capacity to play it? Perhaps the reason there is no commanding resolution to the flute trilemma on any of the theories, including Sen's, is—ironically—that no important question of justice is at stake.

### *Plural Grounds*

Another response to incommensurability that Sen explores is to wonder how serious it is in real life. Perhaps people with different values will nonetheless be able to agree on particular outcomes. An example he gives is the long list of alternative (and not obviously mutually compatible) reasons that Edmund Burke adduced to persuade Parliament to impeach Warren Hastings in 1789. Another is the list of reasons, Sen maintains, that could be given in support of the proposition that the 2003 U.S. invasion of Iraq was a bad idea (pp. 1–3). These examples of “plural grounds” capture the reality that in collective life people often need not agree on why they support a proposition. *That* they do so may be enough. Cass R. Sunstein (1995) calls it “incompletely theorized agreement.”<sup>5</sup> Democracies endorse it implicitly with the secret ballot which shields people from having to explain the reasons for their choices to others.

Notice that appealing to plural grounds scarcely differentiates Sen from the mature Rawls (1993, pp. 9–11, 133–72), whose idea of an overlapping consensus rests on the same logic that Sunstein and Sen both invoke to determine what sort of agreement is needed to sustain an account of justice. Rawls's “political, not metaphysical” move involved recognizing that, just as hiring committees, legislators, and judges routinely agree on outcomes when they could never agree on their

<sup>5</sup> Sen differentiates his stance from Sunstein's (and, presumably Rawls's, discussed below) on the grounds that Sunstein is concerned with alternative theories that converge on the same conclusion, whereas Sen focuses on different “perspectives” that can “be accommodated internally *within* a capacious theory” (p. 397fn., Sen's italics). In fact, in his examples of plural grounds (impeaching Hastings and the Iraq war), Sen adduces considerations that could emanate from either or both. As I have already noted, the same is true of the flute trilemma.

reasons for endorsing those outcomes, so there is no reason to require citizens to agree on metaphysical fundamentals as conditions for accepting a particular set of political arrangements. It is the fact of overlapping consensus, for the mature Rawls, which supplies the basis for political legitimacy. Sen (pp. 2, 12–15, 200–201, 353–54) calls it “plural grounding” or “using a number of different lines” of argument in support of a proposition “without seeking an agreement on their relative merits.” It is basically the same idea.

But appeals to plural grounds resolve considerably less about justice than Sen seems to suppose. Consider his discussion of plural grounds in light of his examples of partial orderings. When Sen says that “we do not need to get all steamed up about identifying the most perfect picture in the world” (p. 101) in order to determine the relative merits of the Van Gogh over the Picasso, he overlooks the fact that it is the difference between the Van Gogh and the Picasso that people are liable to get steamed up about—not the merits of the Mona Lisa about which everyone, by assumption in his example, agrees. In a like vein, people who knew that Everest was the world’s highest mountain might well have disagreed over which out of Kilimanjaro and Mount McKinley is higher before there were instruments to provide a definitive resolution of their disagreement. Sen’s discussion of plural grounds thus lives in considerable tension with his claim that we should focus on concrete comparisons because it will often be about these comparisons that plural grounding will be lacking. Nothing Sen says indicates how he believes that people should decide whether the Picasso or the Van Gogh is better, or which mountain is higher.

### *Impartial Spectators*

The only additional help Sen offers is his appeal to the idea of an impartial spectator, which he takes from Adam Smith. Sen is careful here not to interpret impartiality to mean splitting the difference among competing claims in a society, as an arbitrator might perhaps be inclined to do. Sen also does not mean to invoke the notion of neutrality that became the focus of debates spawned by the early Rawls’s assertion that his principles were neutral among rational conceptions of the

good. This is a welcome fact because the upshot of those debates was that the conception of neutrality Rawls sought cannot be found.<sup>6</sup> Sen dismisses that enterprise as a preoccupation with “closed impartiality” to differentiate it from the “open impartiality” he advocates. This is something more like benevolent disinterestedness than neutrality. Sen thinks of it as reflecting Smith’s admonition to adopt the perspective of an impartial spectator who enables us to view our sentiments at “a certain distance” from us. The goal is “to avoid local parochialism of values” by taking account of arguments from outside our culture and traditions so that we scrutinize “not only the influence of vested interest, but also the impact of entrenched tradition and custom” (p. 45). As Smith put it in *The Theory of Moral Sentiments*, in order to survey our sentiments and motives, we must try to see them “with the eyes of other people, or as other people are likely to view them” (Smith 1853, p. 161). Open impartiality for Sen (pp. 124–35), is a kind of critical distance.

Admirable as such a trait might be, it scarcely does the work that Sen’s appeal to comparative political theory failed to do on its own. He never tells us what makes an observer impartial, other than that the ingredients include distance and, sometimes, ideas from other cultures. Nor does he tell us how the views of an impartial observer would help us decide on the resolution of any actual contested question about justice. In his discussion of human rights, for instance, Sen asserts that there is a human right to basic medical care (pp. 367–68; see also pp. 259, 285–86). Perhaps there is, but he says nothing about what to say to those who contest it or, even if it is granted, how to resolve trenchant disagreements about who is entitled to how much health care, or in which circumstances. In a world in which resources spent on AIDS research could be spent on cancer research, artificial hearts, dialysis machines, or something else entirely, one reasonably anticipates some guidance from a theory that champions the focus on concrete comparisons that bear in consequential ways on real-world dilemmas.

<sup>6</sup>The viable defense of Rawls’s first principle, for example, is that it embodies the most extensive possible system of liberties compatible with a like liberty for all, not that it is neutral. For discussion, see Shapiro (2003a, pp. 131–32).

Yet nothing in Sen's account of the impartial observer even hints at how to deal with them.

This difficulty extends to Sen's treatment of the nondistributive aspects of justice. For instance, in illustrating the alleged advantages of open impartiality he remarks that "globally sensitive questioning can be more important in a fuller assessment than local discussions on, say, the facts and values surrounding women's unequal position, or the unacceptability of torture or—for that matter—of capital punishment" (pp. 71–72). He returns to the death penalty several times, suggesting that once people come to view it through "the eyes of the rest of mankind" they will be more inclined to reject it, along with such other disagreeable practices as stoning adulterous women (pp. 404–05). His text is replete with assertions such as that although many people in the United States or China might be unimpressed by the fact that most European countries have abolished capital punishment, open impartiality can show them that "there would be, in general, a strong case for examining the justificatory arguments that are used against capital punishment elsewhere" (p. 407). This calls to mind Thurgood Marshall's confident insistence (without adducing any evidence) that if only Americans were fully informed about the death penalty they would agree with his opposition to it.<sup>7</sup> I wonder.

Sen concedes that listening to "distant voices" does not require us to accept them, but he says nothing about which among them should be heeded—or why. His repeated assertions to the effect that considerations from elsewhere will "enrich our thinking" never generate a reasoned case about why this enriched thinking will take us to the destinations that he believes we obviously should reach. After a while, his combination of cherry-picked arguments from elsewhere and his hopeful deployment of the passive voice (as in the poverty-based argument "might come to dominate the judgment of justice," p. 397) make the book read more like a manifesto for sensible chaps who agree with Sen than an argument that might persuade even an open-minded skeptic. The trouble with spectators is that there are many

of them, and impartiality tends to reside in the eye of the beholder.

### *Democracy*

To this Sen might object that he has explicitly distanced himself from the claim that there are final answers to questions about justice on the grounds that "our best efforts could still leave us locked into some mistake or other, however hidden it might be" and that, as a result, "the nature, robustness and reach" of theories of justice "depend on contributions from discussion and discourse" (p. 89). This appeal to discussion is central to Sen's defense of democracy in the final chapters of the book. Aspects of what he says there are plausible, but his account is disappointingly rudimentary and marred by missed opportunities to explore the ways in which democracy can advance the cause of justice.

Notice, first, that Sen's appeal to democracy lives in tension with his invocation of impartial spectators since there is no reason to think that democratic publics will take their advice. Sen characterizes democracy as a system of public reason and discussion. The image he seems to have in mind is an academic seminar writ large, where the best argument wins. But in democratic politics outsiders are easily portrayed as stooges to some unacknowledged local interest or as having agendas of their own. Think of the "impartial" development plans handed out by the IMF and World Bank, the Quartet's roadmap for Palestinian/Israeli peace, or the climate control policies recommended by the IPCC. Moreover, appeals to arguments put forward by outsiders lack democratic legitimacy precisely because of where they come from. Supreme Court Justice Stephen Breyer and State Department legal adviser Harold Koh have been pilloried for appealing to a version of Sen's open impartiality in interpreting American constitutional law.<sup>8</sup> If one is going to be

<sup>7</sup>See *Furman v. Georgia* 408 U.S. 238 (1972), at pp. 360–69. See also Marshall's dissent in *Gregg v. Georgia* 428 U.S. 153 (1976).

<sup>8</sup>See Justice Scalia's remarks to Justice Breyer at the U.S. Association of Constitutional Law Discussion at American University, <http://www.freerepublic.com/focus/news/1352357/posts>. Opposition to Harold Koh's nomination included a "Coalition to Preserve American Sovereignty" letter by the Ethics and Policy Center to the U.S. Senate Committee on Foreign Relations (David Weigel 2009).

committed both to impartiality and to democracy as vehicles for advancing justice, some attention is needed to the ways in which they conflict. Sen appears not to notice the problem.

The most suggestive part of Sen's discussion of democracy turns on his well-known observation that democracies seem to be immune from famine.<sup>9</sup> This is surely an advantage, but what does it tell us about democracy's desirability from the standpoint of other features of justice that Sen prizes? Democratic responsiveness to famine has not carried over, for example, to alleviating chronic poverty or reducing extreme inequalities—despite the expectations of many nineteenth and twentieth century thinkers to the contrary.<sup>10</sup> This difference suggests that at a minimum that Sen's view of democracy as a system of "public reason" that promotes "government by discussion" that will facilitate advances toward justice (pp. 321–28) stands in need of pruning by reality.

Famines, like other disasters, are vivid. They garner media attention, as Sen notes, making it hard for governments in countries with a free press—which democracies generally have—to ignore them. The public drama and media attention surrounding famines make it possible to mobilize support for extraordinary action. Moreover, famines and other disasters often strike unpredictably out of the blue. This has two further implications: they tend not to involve fraught moral debates about whether and to what extent people are responsible for their dire straits, and they exhibit a "there but for fortune . . ." logic. People know that disasters can befall anyone. Powerful coalitions are not needed to support

responses to them because powerful coalitions do not emerge to block those responses. The kind of laws mandating disaster relief that are enacted in the wake of hurricanes, or to compensate victims of catastrophic terrorist attacks, could never make it through the rough and tumble of normal legislative politics. And, because of their exceptional and, therefore, bounded character, disasters provide opportunities for leaders to demonstrate efficacy. The problem can be solved, and it is usually clear what is needed to solve it. Politicians are often held accountable for events over which they have little, if any control. Catastrophes can empower them.<sup>11</sup>

Most problems of injustice are not like this. They tend to be chronic rather than catastrophic, systemic rather than episodic, and rooted in enduring conflicts of interest and ideology. Responses to them are less spontaneous than is the case with disasters, and inevitably more contentious as they become embroiled in disagreements about causal and moral responsibility and the likely efficacy of alternative courses of action. They divide people along coalitional fault lines. How feasible it is for politicians to respond to them will depend on calculations about the chances of success, the views of powerful members of their constituencies, and related considerations. Sen might with profit have explored the implications of these features of democratic politics to illuminate the conditions under which democracies are likely to be justice-promoting. For instance, if systemic injustices can be reframed in the public imagination to be more like famines and other catastrophes, more progress might be made with

<sup>9</sup> He might have added that democracies do better than nondemocracies at protecting human rights—indeed that democracy is more important from this point of view than much trumpeted (at least by American constitutional theorists) role of independent courts and bills of rights (see Robert A. Dahl 2006, pp. 152–72; Shapiro 2011, pp. 68–79).

<sup>10</sup> Classical liberals like John Stuart Mill and Alexis de Tocqueville feared that a universal franchise would lead to majority tyranny through which the masses would expropriate the assets of the few. This led Mill to advocate a second vote for university graduates and Tocqueville to embrace standard republican constraints on majoritarian politics. In his later years a chastened Karl Marx noticed the same possibility from a different point of view, leading

him to endorse the "parliamentary road to socialism" in hopes that the working class would do through the ballot box what they had failed to do at the barricades. The median voter theorem developed by Harold Hotelling, Anthony Downs and others also predicts that imposing majority rule on a distribution of income and wealth of the sort that we observe in the capitalist democracies will lead to significant downward redistribution. For a review of the literature on why this does not occur in fact, see Shapiro (2003b, pp. 104–45). On the failure of democracy to alleviate chronic poverty, see Dan Banik (2007).

<sup>11</sup> This does not mean that they won't make a mess of it, as the Bush Administration did in response to Hurricane Katrina's devastation of New Orleans in 2005. But when that happens, they will be seen as inept more than as malevolent.

them in democratic politics. But this would take more work than Sen's vague appeals to government by discussion.

Consider the abolition of slavery. Sen rightly points out that it is not hard to conclude that slavery is unjust, even if we are unsure about many other questions of justice and disagree with others about just why we hold this view (pp. 131, 395–96). He flirts with the notion that this agreement played a significant role in achieving abolition (pp. 398–99), but how plausible is this? Certainly it was not remotely sufficient to end slavery in the United States, as he knows. That took a bloody civil war after various institutional compromises, such as the three fifths rule in Article 1 of the Constitution and the Missouri Compromise of 1820, had failed to generate the necessary political common ground to resolve it democratically. This is scarcely surprising. The slave economy was deeply entrenched in the South and fundamentally incompatible with the free labor system that prevailed in the North. If the Union was to remain together one would have to displace the other by force, as eventually happened (David Brion Davis 2006, pp. 250–322).

The story of abolition in Britain and the British Empire is more illuminating of the conditions under which democracy can help eliminate injustice. Democratic politics indeed played a role, though this had little to do with public reason and discussion. Rather, it turned on forging and sustaining a parliamentary coalition to support abolition. A small group of Dissenting MPs engineered a vote outlawing the North Atlantic slave trade in 1807, but meaningful enforcement had to wait until they came to hold the balance of power in Parliament in the 1830s. This enabled them to auction their support to governments that were willing to advance the abolitionist cause.<sup>12</sup> Slavery was outlawed in most of the Empire in 1833, helped along by £20 million in reparations paid

<sup>12</sup> Chaim D. Kaufmann and Robert A. Pape (1999, pp. 660–61) point out that, from the 1835 through 1857 elections, the gap between the two major parties' share of the vote was significantly smaller than the Dissenter share of the electorate and that, although the Dissenters favored free trade and most of the other reform causes associated with the Whig–Liberals, they were unwilling to trade them off to secure abolition—even to the point of toppling the Whig government of Viscount Melbourne in 1841.

out to slave-owners.<sup>13</sup> Enforcement was ramped up outside the empire by aggressive diplomacy and unilateral military action, which escalated to an undeclared war against Brazil in 1850 to end the slave trade there. The United States finally agreed to searches of its ships in 1862 and Cuba was pressured into ending slave imports five years later.

So Sen is right that democracy can be pressed into the service of reducing injustice. Indeed this can happen against expectations. Had there been neoclassical economists around in the late eighteenth century, they would have scoffed at the possibility of abolishing the slave trade. In the absence of a system of multilateral enforcement, Britain had to bear the enormous expense unilaterally—over several decades—without any obvious prospect of a return. These costs included the direct costs of the enforcement regime to the Treasury, as well as the indirect but very substantial costs to the economy (Seymour Drescher 2010, pp. 113–86). Successive administrations, both Whig and Tory, were cajoled into doing this through the democratic process. It was, by any measure, a remarkable democratic achievement.

But while discussion and public reason played a part, they scarcely seem to have been at the heart of the matter which turned on Dissenters' ability to forge and sustain a political coalition at Westminster to get the job done and the fact that they did not confront anything like the entrenched and unified pro-slavery interests that prevailed in the American South. Slave-owners in the Empire could be bought off. The West India-based slave-traders stood to lose, but they lacked political clout at Westminster. The United States had outlawed the Atlantic slave trade as soon as this was constitutionally permissible in 1808, but for reasons that had little, if anything, to do with democratic public discussion, or, indeed, even abolition. Rather it was motivated by the desire to limit the growth of America's nonwhite populations and to protect the—by then robust—American domestic slave trade (Steven Deyle 2005, pp. 14–39). British domestic commercial interests lacked the incentive to resist very hard because ending the slave trade posed no immediate threat to the flow

<sup>13</sup> The exceptions were Ceylon, St. Helena, and some territories possessed by the British East India Company.

of cheap materials, notably cotton and sugar, produced by slave labor abroad. The landed gentry were more worried about other threats.<sup>14</sup> Most workers lacked the vote, but to the extent their views mattered they had every reason to oppose the threat slavery posed to their wages and employment. (Roger T. Anstey 1981, pp. 38–41; Kaufmann and Pape 1999, pp. 650–53).

Like responding to famines, and unlike, for example, reducing poverty or inequality, abolishing the slave trade and then slavery in the British Empire were well-defined proximate goals. This is vital when trying to advance justice democratically. It creates a focal point around which to organize a majority coalition without regard to its members' other—quite possibly conflicting—interests, and it provides an achievable goal for which people can be mobilized before their energy and momentum dissipate. This helps explain, I think, why the more proximate goals of the civil rights movement, such as ending de jure segregation, abolishing restrictive covenants, and integrating institutions like the military and professional sports, were more easily achieved than the more nebulous challenges posed by chronic race-based inequality and soft apartheid in American schools and neighborhoods. Fighting these evils involved pursuing goals that were less proximate, and the coalitions to achieve them have been harder to sustain as a result.

British abolition also shared in common with famine-response the fact that it did not face powerful and well-organized interests on the other side. The case of American slavery reminds us how important a limitation this is on democracy as a tool for abolishing injustice. Even without this handicap, British abolition required imaginative leadership to mobilize and sustain an effective political coalition for the better part of half a century, the strategic use of force, and quite a bit of luck. But the distribution of economic forces in the country and the Empire, and of political power at Westminster, meant that

<sup>14</sup> Most Tories opposed abolition, but they felt more immediately threatened by mounting demands for Catholic emancipation, expanding the franchise, abolishing rotten boroughs, reducing Royal prerogatives, and social legislation on behalf of the expanding industrial workforce. Pragmatists like Pitt were persuaded to embrace abolition by moderate Whigs who wanted tactical concessions to stanch these more radical demands (Kaufmann and Pape 1999, pp. 650–53).

there were plausible reasons to try.<sup>15</sup> These comments should make it clear that Sen's fine work on democracy and famine-prevention points the way to an important research agenda: to understand more than presently we do about the conditions under which, and the means through which, democracy can operate to reduce injustice.

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<sup>15</sup> This is not to say that single issue redistributive coalitions will always be progressive or otherwise justice-enhancing. See Michael J. Graetz and Ian Shapiro (2005).

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## E Macroeconomics and Monetary Economics

*The Economics of Enough: How to Run the Economy As If the Future Matters*. By Diane Coyle. Princeton and Oxford: Princeton University Press, 2011. Pp. 346. \$24.95. ISBN 978-0-691-14518-1. JEL 2011-0504

In *The Economics of Enough*, Diane Coyle has written a clear, multichapter survey on the problems of contemporary capitalism. As she notes, the recent financial collapse has brought these problems into high relief. Her discussion of the problems demonstrates a both wide knowledge of social science literature—particularly economics—and a clear writing style.

The book's first five chapters summarize "challenges" to capitalism (i.e., problems) with titles including "Happiness," "Posterity," and "Trust." As in all good surveys, the author has a point of view and Coyle's point of view is best described as "Third Way Economics." In her chapter entitled "Happiness," Coyle presents a balanced summary of the history of research assessing whether economic growth produces happiness. She concludes that growth is, in fact, associated with the increased happiness of the population. But at the same time, she argues that our current, single-minded pursuit of economic growth results in too much present consumption, too much debt, unsustainable inequality, and unsustainable environmental damage. Similarly, her chapter entitled "Nature" presents a balanced treatment of the economic literature on climate change including, for example, the recommendations of the *Stern Review* and its critics.

Following this description of current problems, the book's next three chapters discuss "obstacles" to solutions: a chapter on the difficulty in measuring true economic output, a chapter on values (including a debate on how much one should rely on markets), and a chapter on the inability of current institutions to address today's problems.

As noted above, Coyle has read widely and the first eight chapters of the book are rich with citations and careful explanations of research. While her main focus is economics, she draws on other social sciences when it is useful to her analysis. Readers of, say, *The Economist* will be familiar with many of the issues she raises but she has gathered many ideas in one well-written package.

By contrast, the ninth and final chapter is a disappointment. The book's subtitle, "*How to Run the Economy as if the Future Matters*," suggests the book will be in part an instruction manual containing new approaches to the problems Coyle describes. The approaches are contained in the book's last chapter—"The Manifesto of Enough"—but they read like the recommendations of a task force: put more money into developing better measures of a nation's output (including its social dimensions), more action by government to encourage savings and investment, more action by government to address the extremes of income inequality, and so on.