

Amartya Sen's Realizing Approach of Concept of Justice and the Legislative Democratization

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Abstract: *Democracy is a political operation process which has universal value meaning, instrumental and constructive role, its essential purpose is to achieve social justice. Democracy content should include: universal application to vote, the legitimacy of the election results, the protection of civil and political freedom, justice authority, freedom and independence and so on. Legislation is the primary stage to achieve social justice through democratic means. But in real legislation, the lack of functioning democracy often results in the failure of legislation, not only cannot promote the realization of social justice, but will increase the injustice phenomenon. Through a comprehensive analysis of Sen's concept of justice, there are four legislative democratization ideas which are consistent with Sen's approach: First, an extensive collection of legislative opinions, and the use of social choice theory on the draft legislation choice; Second, Promote news freedom and extend expression way of citizens; Third, proper dispersal of legislative authority; Fourth, accelerate political reform and encourage elections.*

Keywords: Amartya Sen, Concept of justice, Legislative democratization

1. Introduction

Sen's viewpoint of justice is a theory system, rather than a single theory. He created the theory through the integration of multiple theories. The viewpoint of justice development path is not straight, but accumulation type. At the early stage of his research career, he mainly focuses in social choice theories. Practical ability, is the concept of sustainability research results. Sen's justice is a kind of practical justice. The traditional researches of justice have experiences the transformation from the building of perfect justice system to the attention and resolution of the unjust system of reality. On this basis, Sen made a detailed analysis and demonstrated the replaced tools of contract theory, namely the superiority of social choice theory. Then he illustrated the ability of practical ability. At last, he deduced the importance of democracy according to the evolution of logic.

Rawls's theory has an important premise, namely establishing in a well-ordered society. This premise doesn't exist in the majority of developing countries including China. So if you continue to build a "perfect justice" society in Rawls's theory accurately. There is no doubt that only the ideal and the reality gap is widening. Theory's guiding role to reality will weaken further. The gap between theory and practice will not be able to make up. On the one hand, the theoretical circle has no intention to guide practice and solve practical problems, immersed in the "puzzles games". On the other hand, the theory of the growing discontent and it lacks enough theoretical guidance and leads to disorder. It opposes with the intention of the rules of law.

Sen are faced with the problem of empathy as an economist and a philosopher from developing countries in the developing countries. Although his justice is not perfect, its reasoning process and theoretical framework also have many loopholes. But since Rawls, there are one of the most important works in this field. At the same time, his practical

justice has a strong guiding role for the present stage of China. It is of great theoretical and practical value to solve the problems of the present stage existing in our country. Sen's theory emphasizes the "action" rather than "build". So if to face, the theoretical circle of void and invalid can get changes. At the same time, practice can actively participate in debates and arguments in the process of maturing and well order. Sen's viewpoint of justice is to global justice, but the focus is in the developing world. So in the following discussion of the paper, the writer attempts to extent the theory of path. I will lead the theory to law study, and limit it in the field of legislation to ensure that this attempt will be done in the framework of Sen's theory. In the last part of the theoretical derivation, Sen puts forward the democracy. So the extension trying to democracy works as a starting point, and use Sen's perspective method to demonstrate the legislative democratization.

Democracy content is quite heterogeneous, but the basic content is for sure: the vote of universal application, the legitimacy of the election results, the protection of civil and political freedom, justice authority, and news freedom and independence and so on. If citizens or groups of different points of view cannot be given the opportunity to express their views, or the voters cannot get the freedom to examine different points of view, the election itself will be no value. Democracy is not only a single method relying on the operation of the majority principle, but the operation of the process system.

2. Path of the adoption of Democracy to Achieve Social Justice

Sen's theory is put forward for global justice, not for a particular institutional structure. Global developments are not uniform, the economically less developed countries face greater economic demand pressures. What is the first one? Eradication of poverty and suffering, or to protect those who are actually of little use in terms of poor political liberties and civil rights?

The first you need to change is the problem itself. Eradication of poverty and protection of civil rights is not a zero-sum relationship. Sen believed that the economy needs was essentially strengthening rather than weakening demand of political freedom. General importance of political freedom and civil rights includes three aspects:

The first is the direct importance. Political freedom is a part of universal human freedom. Civil rights and social rights are a key part of social individuals of a happy life. Political participation and social participation for human happiness has a natural value. Citizens cannot participate in social and political life which would be an obvious injustice phenomenon.

The second is the instrumental role. In social and political life, citizens can express and demonstrate their individual requirements, in order to cause political concern. Political freedom and civil rights play an instrumental role in the media here.

The third is the constructive role. The democratic functioning provides an opportunity for citizens to learn from each other in fact, while helping the whole community to reach a consensus and find the need to give priority to solve. Even when demand represents only economic needs, we must also enable the public to fully discuss different information. It can be called a constructive role.

2.1 The Conflict between Economic Needs and Freedom Rights

This conflict really exists? First, the basic arguments of persons in favor are explained: First, political freedom and civil rights will no doubt hamper economic growth; Second, it is assumed that the individual thinks economic conditions improvement is better than universal political freedom and civil rights; Third, the emphasis on political freedom and civil rights are the values of Western-style. And some cultural groups, such as the "Asian values" put greater emphasis on order, discipline and stability.

The first reason exists empirical error, namely, if a case could be a reason for justification of the proposition? A few authoritarian states develops more rapidly than democratic countries. But there are also countries such as Botswana of African democracy develops faster than the various countries in Africa military government or authority. Thus, one example cannot prove necessity. Considering all the comparative studies, it can be seen that probably there does not exist any clear relationship between economic growth and democracy. (Amartya Sen, *Development As Freedom* (Anchor Books 2000), p148)

The second reason is the presence of non-dogmatic verification. Practical verification requirements are in the presence of free elections, freedom of speech and the opposition of circumstances. Authoritarian state itself does not allow the existence of these contents, so the proposition proved in this case simply is not true, but cannot know how

to test.

The third reason relates to the value of universality. The defense argument in part of the democratic differences region is based on cultural differences. One of the most influential is the "Asian values." Asian countries which advocates affected by Confucian culture emphasizes the overall importance of order and stability, rather than the existence of political liberty tradition. So these countries are skeptical to democracy.

The values of Asian countries arbitrarily interpreted as advocating order and stability, ignoring political freedom is quite arbitrary, lacking sufficient clear evidence. The reason is: people making this view is not rigorous academics, but politicians who have a personal political purposes.

2.2 Tools and Constructive Role of Political Freedom and Civil Rights

In the discussion about democracy, Sen used the method with both sides of the argument. In the foregoing part critique of anti-democratic, and then evaluate the effectiveness of democracy from the front. The level of political freedom in this proof shows an instrumental role in that oversight and incentives for governments and groups. If the ruling class needs to be supported by elections, they have to face criticism of society of citizens and civil demands of itself. The example that Sen used most frequently was the starvation occurred areas: mass starvation occurs mainly in the authoritarian state, the democratic state may lack of substance and perhaps has a slower development in economic than the authoritarian state, but mass starvation did not happen. Starvation is completely a kind of injustice, and individuals lost their lives due to the lack of food. The reason is not complicated: since these factors, such as holding regular periodic elections, the opposition party's criticism, allowing the freedom of the press, and questioning the wisdom of government policy that exist in the state, it will attract the government's enough attention and make it improve policies before starvation happened, so the starvation is avoid. In contrast, due to the lack of these factors in authoritarian state, nobody will put forward the oversight and recommendation to policies of the government. In order to maintain political domination, the state does not broadcast the information but confine it to one area, so the starvation becomes from the local to global.

Political freedom also has another positive role, namely constructive role. The exercise of political rights of citizens tends to promote the government's response to economic needs. When citizens have economic needs, the best means is not unlimited work because of viable differences discussed above. It is necessary to the exercise of political rights, a political discussion, prompting the government at this time the implement policies to promote viable capacity development needs of the economy to respond to citizens. Meanwhile, the public debate can also promote intellectual development and enhance the quality of the individual.

3. What's Legislative Democratization

Clarify Sen's criticism about Rawls and bring the concept of justice and democratization theory into the legislative process, it will provide the stable development of the developing countries with theoretical support and protection. When extending the theory, it will limit the scope of this program in the legislative, rather than discuss specific applications and justice law, based on the following two considerations: First, contact with the democratic legislative process more closely and directly. Second, to introduce Sen's concept of justice into law pharmacology studies, we should first focus on the study and evaluation of the theoretical level.

3.1 Theoretical Background and Limited Scope

Limited one: As used herein, the term "legislative democratization" is only limited in areas of the statute. There are many issues to discuss legislation premise, which is not too much involved, just the reality of the existence of legislative action to make amendments institutional tentative.

Limited two: In the existing system, it can be divided into two kinds including authoritarianism and democracy. In both institutional system, the authoritarian status is in apparent injustice, so it should be excluded. Excluded process should be gradual. In the course of the exclusion of the non-functioning justice system, as a procedural, the legislative process has a fundamental role. As the form of legislation is concerned, the legislation is a rational building process. The essence of democracy is reflected in its form.

Limited three: The theoretical definition of democracy is diverse. In the limit of definition, we use democratic methods in summarizing content, rather than use the concept of a particular kind. Democratic typically contains the following main elements: universal political rights and civil rights, universal elections, freedom of the press and independence of oversight.

3.2 Legislature Democratization Meaning

Legislation democratization basic content includes the following aspects: complete systems sift through procedural legislative process, expand the democratic content in limited three in the legislative process, commonly use negotiated method in the legislative process, expand the scope of consultation and information quantity, use social choice theory to discuss and vote on the draft legislation. Use democratic methods in the legislative process, and the promote democracy through legislation. This is the basic path of legislative democratization.

4. The Purpose and Significance of the Legislative Democratization

The essence purpose of the legislation is to achieve the democratization of social justice. Of course, it is undeniable that the legislative process of democratization is to achieve social justice in a program. Social justice is not only the

essential problem political practice faces, but also the fundamental problem in the field of value inside. The best way to solve the problem is basing on the rational way of practical operation. The legislation is in compliance with the requirements of rational functioning, to use democratic means is in compliance with the requirements of social justice in their process.

Law is binding, but is closely related to everyone in the society. Legalization society must be a society which can reconcile citizens' personal development and social development. Legislation significance lies in the democratization of such a specialized program process into the public talks, to develop respect for the individual needs while promoting the overall development of the legal community. Specialized develop model of course is indispensably important, because the legislation is a professional system formation process. Not everyone can grasp professional political, legal knowledge, systematic logical approach. But legislation can accept the general individual's core of the demand in substantial level. The more people get recognition, it will more likely to be effective, and it can also reduce the legislation failure. The legislation process is also a process of an educational nature. Citizens should gradually establish democracy sense of participation and social responsibility in the actual political practice.

5. Ideas of Legislative Democratization

The following tentatively proposes several ideas and methods of legislative democratization:

5.1 Wide Collection of Legislative Opinions and Selection of Legislative Draft

Legislation preparation in the modern legislative activities process generally refers to activities related legislation before the bill is proposed. Preparing legislative procedure in the legislative process of democratization is the most important stage. Democratization of opinion can enter the draft legislation, and the final vote, and becoming the de facto regime depends on the stage of full consultation.

In the legislative work for a particular area, the collection of legislative opinion is a basic pre-process, but indeed a core program. Because the legislation views reflects the various interest demands of different groups in society. There are great differences in the knowledge base, economic status, etc. between groups, but to expand the legislation collection can find the views of the common parts. Individuals in the society have the right to use rational ways to express such demands. As long as the comments clearly express their desire and reason, such legislation should be important. At the same time, there should be specialized legislation agencies who will describe and explain the matter of the public and initiatively expand the scope of legislative observations.

In the current legislative system, the draft legislation appears in the form of a complete code of quasi and does not offer the

option to choose from, and changes to the draft legislation often does not reflect the actual demands of the public. You can make the following changes on this point: on the same field, drafting the draft based on multiple different views, or providing multiple draft legislation on some controversial provisions. This allows the use of social choice theory for screening. This process avoids the single draft of arbitrariness and injustice system and may lead to lack of effectiveness.

5.2 Expansion of Expression Pathways and Press Freedom

In modern society, the media has a strong voice. If one of society's information systems is independent, it means that the system has a supervisory role of the news community. Once the balance of strength and discourse is formed, the interests of the social aspirations of individuals can be expressed through the information system instead of legislative drafting audit. Individual words can be fully expressed with the expansion in the news agency.

The individual may express an advice for legislation as well as related reasons to information systems, and the information systems will publish these comments through the integration. With its own voice and opinion breadth, you can quickly get the support or against of certain groups who have an impact in society. Due to limits of power itself, legislative drafting bodies will consider these comments.

5.3 Proper Dispersal of Legislative Authority

Today our society is a pluralistic society, which is for sure. Conflict of religious, culture and economic aspects in reality is real. In the individual in different contexts, the capability set is very different. Promoting the capacity of individuals is an important part to achieve social justice. At this level, it is difficult to play its due role for the unified and centralized legislative system.

In this context, appropriate dispersion of legislative power would be an effective way. The dispersal argument here must be in violation of the law without national unity establishment. In each region, its citizens focus primarily on the basis of full consultation on the screening and the development of institutional within the jurisdiction issue. In so doing, it can reduce the effectiveness lack of legislation national unity appears, and it can also take advantage of the system means to facilitate the development of their capabilities in terms of different audiences.

5.4 Political Reform and Elections

Sen has transformed social choice into a viable tool in his theory, so it is no doubt that the election is the most important way of democracy. And this autonomy reform must start from the grassroots. As a group with relatively close and stable person relations, the village is the best starting point of autonomous elections. Individual in villages is familiar with each other and trust each other. Meanwhile, the educational level in rural areas is generally low, so it is simpler for the

demands of political rights. Autonomy elections can not only cause people in the ideological progress, the results of the elections will be relatively concentrated and stable, which is easy to form a stable autonomous systems. After the general elections in the country, it can be gradually expanded to cities, forming a bottom-up reform process. Ultimately, democracy can be achieved to promote social justice.

6. Conclusion

Amartya Sen's concept of justice is the latest and most important achievement in today's world theorists in the field of justice. On the critique basis of Rawls's justice theory, Sen's theory has proposed comprehensive alternatives. Sen's theory is more applicable to developing countries. No matter what kind of geography, natural conditions, no matter how many races included, regardless of the level of economic development, the pursuit of social justice is the most important and eternal topic. The realization of social justice is not overnight, but gradual rational process.

The realization of rule and law is the best rational way, but also the most concentrated expression. Using rational procedures to establish rational system for the rational application is the best path. Legislation democratization issues is set up based on this idea. For practice, the key issue is to have the courage to take the first step.

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