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Lecture - 12 Justice – I: A Distributive Concept

Hello, friends. Today, we are going to discuss a new topic called Justice. We are going to have four lectures on this topic and the reason for focusing more on this concept is not just the centrality or dynamic understanding of it or because it has inner differentiation between different meanings, interpretations or conceptualization, but also, to see, how justice is related to some of the other political values as we have discussion so far.

For example, the value of political equality or the question of liberty and rights. We will see some of the normative concerns and the issues that we have discussed, while discussing these concepts like liberty, equality and rights. We will see similar kinds of problems or contestations when we try to theorize, what is called justice? So, justice is something, which we all want and think that an ideal life or an ideal society is a just society or a just life.

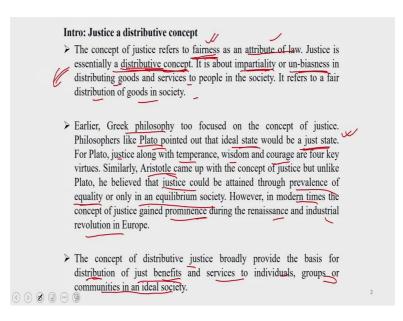
Justice is the defining characteristic of a society and of an individual. The justness or the due process is somewhat related to this procedural notion of justice, where we want a rule which should be applicable for everyone without any discrimination. That is a kind of due process or natural theory of justice which tries to give everyone equal or similar opportunities.

However, on the other hand, we also, know the hierarchies in societies or discrimination which is prevailing in societies or the domination or subordination like the inequalities that exists in society. So, in that kind of a given situation, how to ensure that justice is not only, argued for or define, but also, it effectively, achieved in such a society. There is a kind of substantive notion of justice which we will try, to understand over the course of this four lectures on justice and also, different conceptions of justice. For example, Rawls, *A Theory of Justice* and to his critique by Robert Nozick and by the feminist critique of justice as well.

We will try to understand this concept of justice through different ideological or different parameters and also, its relationship with other political values. Now, today, what we are going to do is to begin this topic by understanding, what is justice and why it is understood as a distributive concept?

This we are going to discuss, today and then, we will discuss also, if it is actually, so. That means, if justice is a distributive concept, then what should be the ground of that distribution and why to distribute? When we can say distribution is regarded as just or unjust? Who has got to decide which principles of distribution or re-distribution are just or unjust? These are some of the issues which we will discuss today.

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The first thing, we need to understand about justice is that it is a normative concern. There are moral, normal, and normative issues which are involved, while discussing about justice. And this normative or moral issue which is involved in the question of justice is not something which really, calls for any kind of disagreement or contestation. So, there is a kind of normative and moral consensus about justice.

The desire for justice and aspiration for having a just society or a just social, moral, political order is something, which is not new and there is very few contestation over these aspirations or desire for justice. However, the contestations or the differences emerge when we actually, tries to unravel. What is this justice all about? What does it mean to be a just society? What does it mean to have a just law or a just order?

In that sense, justice also, leads to the question of distribution. So, essentially, justice as a normative concept is a distributive concept and this distribution, the method, the procedure or the mechanisms for distribution makes the whole conception or interpretation of justice a bit contentious issue. What should be the ground, what should be the mechanism and the procedure for distribution and re-distribution is something, very contentious. The reason being it is primarily, because the society has limited resources.

If, a society has enough resources to meet the needs and requirements of every member of a particular society, then there is a no contestation. The contestation emerges when there is a scarcity of resources and all the members, and their needs cannot be fulfilled. Then, on what principles and grounds such distribution should be done? That makes the question of justice a distributive concept and also, an essentially, contested concept in terms of the methods, approaches and procedure of such distribution.

Let us begin, with let this concept justice which refers to basically, about the fairness which is an attribute of law. Justice as fairness is based on the principle of nondiscrimination or without any differences. So, law, as we know in the positivist tradition applies to everyone without any discrimination. Thus, justice as a normative concept talks about fairness. Now, on fairness, we will discuss how it is easily said than done.

Suppose, if a society is unequal and you apply, equal law in that society. Will the outcome would be fair? Obviously, the answer is no, because if, you treat unequal equally, the outcome will never be just or fair. Then, what you require is to treat people differently, according to their needs, requirements, conditions, and then, provide to them a kind of level field or an equal opportunity, and let them excel in it. However, if still, some inequality prevails, then, that inequality is acceptable because it depends on their merit, and individual efforts.

The fairness is something, which is not just about treating everyone equally, but also, treating different people, groups and communities depending upon their conditions, social or cultural or economic backgrounds. So, justice is about fairness which is much more than merely, equal treatment, or entries and attributes of law and how such, differences or differential treatment can also, lead to a fair result that we will discuss, as we move on to discuss, *A Theory of Justice* by John Rawls.

It is about fairness as an attribute of law and justice is essentially, a distributive concept. Distributive concept means it is about distribution of resources, as I have said it has a moral normative concern and there is very less contestation over this term justice. But it is necessarily, or inherently, implies re-distribution or distribution of resources. And the mechanism or the procedure of such distribution and re-distribution makes this whole conceptualization of justice a bit contentious or a contested concept.

It is essentially, a distributive concept because it talks about distribution of resources who should get what and on what grounds, and if the amount or the quantity they get are justified or not, and how we can justify, those allocation of resources, to different sections of society. These are some of the issues which make the notion of justice very contentious concept. It is essentially, a distributive concept which talks about allocation of resources or distribution of resources in the society.

It is about impartiality, or unbiasness in distributing goods and services to people in the society. It refers to a fair distribution of goods in the society. It is about the fair distribution in society. We will discuss in a moment, what should be the ground for such distribution. But here, we need to understand justice as a concept which is about distribution of resources. So, essentially, it is a distributive concept. Now, if we look at this urge, the moral normative urge for justice is not new to the modern society which is also, in many ways, equal and simultaneously, unequal society in terms of social, and economic conditions of the people and opportunities of different people's depending upon their birth, social, cultural and economic backgrounds.

Earlier Greek philosophy, focused on this concept of justice and Plato pointed out that an ideal state would be a justice state. So, justice, for Plato is the defining feature of an ideal society or it is idealistic. He regarded justice along with temperance, wisdom and courage as the four key virtues of a society. For Plato, justice is something, which is a defining feature of society or better called a just society.

Plato, makes a distinction between different sections of society. He believed in the hierarchy, that means, different classes in society which were fit to do different kinds of work and if, they were doing what they were fit for to do or they were capable of doing that, then that society could be regarded as the just society. So, essentially, the assumption about was that justice it gave everyone his or her due. Now, what is his or her

due is something, which we can debate and discuss, and we will discuss as we move on to the next lecture.

For Plato, discussing about justice in the Greek tradition is about arguing justice as a principle which has given everyone's due and his understanding of giving everyone's due is not like modern idea of treating everyone, equally. Plato believed in the social hierarchy or the three sections, and the philosopher, the warrior and the artisans or patients. They should do what they are capable of doing and if, they are able to do, what they are capable of doing, then the outcome or the society would be a just society.

Aristotle, came up with the concept of justice, but unlike, Plato he did not believe in the hierarchy. Aristotle believed that justice could be attained through the prevalence of equality or an equilibrium society. He was more concerned about creating a society which is equal in nature. So, one of the conceptions that Aristotle talked about was to have an ideal polity, where everyone should be able to govern and being governed in turn.

The capability to rule should be available, to everyone and not just for few. So, Aristotle's conception of justice is much broader and certainly, egalitarian than Plato. However, in both of them, particularly, in Plato, there is the communism of wives and property. So, there is some amount of egalitarianism, we can see in his thoughts. But by and large, women or slaves or certain other sections of society remained outside the sphere of justice or it can be argued that justice for them is about citizens, or citizens by default means, only the male citizens.

Their conception of justice remains somewhat limited, but nonetheless, it is on the basis of this principle of giving everyone's due. And, what are those dues which are differently, conceptualized by Plato and Aristotle. In the modern times, the concept of justice gains prominence during the renaissance and in the industrial revolution in Europe, where there was the beginning of new discourse about individuals, and government was based on the consent of the people. Even government had limited role to play and it must protect certain rights of individuals which we have discussed in the previous topic.

In that time, which kind of government is a just government or legitimate government. So, that discourse leads to this conceptualization about justice as a normative and distributive concept. The concept of distributive justice, broadly, provides the basis for the distribution of just benefits and services to individuals, groups and communities in an ideal society. Justice as a concept talks about re-distribution or distribution of wealth in society or between different groups or different societies or different communities.

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	Basis of distribution of resources	
	There are many basis for the distribution of resources such as need, desert, freedom/choice, maximization of utility, equality and least disadvantage. In order to ensure justice in a society, it is necessary to distribute the resources on the grounds of these values.	
в	 Need- Distribution of benefits and service should be made keeping in mind the needs or requirements of every individual in a society. There is a need to have a minimum set of resources to be made available to everybody. Desert- It refers to the individual efforts which help him/her to earn additional income and he/she deserve that extra income which may be relatively higher than others, then he/ she deserves to save or keep that extra income. 	
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What should be the basis of such distribution? There are many basis for the distribution of resources, such as, needs, desert, freedom or choices, maximization of utility, equality and least disadvantage. In order, to ensure justice in a society, it is necessary, to distribute resources on the grounds of these above mentioned values. And now, we are going to discuss each one of such values, to ensure justice is not just something, as a mere moral or normative concept, but it is also, about creating a society which is more just.

Thus, any society at any given point of time has some inbuilt tensions or contradictions in terms of the interests of different sections of society. The whole politics operates on the basis of this principle of who gets what, because the resources are limited. In the redistribution of the resources, there are certain debates about making the society more equal or just. So, think about Greek times, when there was some sections of society, which were totally, excluded from the participation in public life like, women, children, and slave.

To a society, in the 21st century, when we want every single member, the assumptions being that having same and equal moral worth must have certain rights and should be

given opportunity, to participate in the public political process. This very assumption is also, very radical or transformative in many sense. In the actual reality, there exist some inequalities.

At the normative level or at the theoretical level, no longer the hierarchies or exclusion is justified on the grounds of tradition, birth, or religion. Now, the hierarchies of all kinds are between male and female. We find those hierarchies as increasingly, challenged now.

So, to ensure that we just now, aspire for or desire for justice, but we also, ensure to create conditions in which everyone has the just or fair chances to progress, and develop. It requires ensuring that everyone should have equal opportunity or equal resources on at least, some primary basic goods or resources. Again, how to ensure that everyone should have resources or how to distribute the resources of the society or state? There are some principles which can be a guide for such distribution and all.

One is the idea of need. Need is like the requirements of different people in society. So, it believes in the distribution of benefits and services which should be made keeping in mind the needs or requirements of every individual in a society. There is a need to have a minimum set of resources or to be made available to everybody. That is a kind of equal principle, but the needs, and principle talks about that in a society which has different individuals and needs, and where the distribution of resources should be done on the basis of needs of an individual or a family.

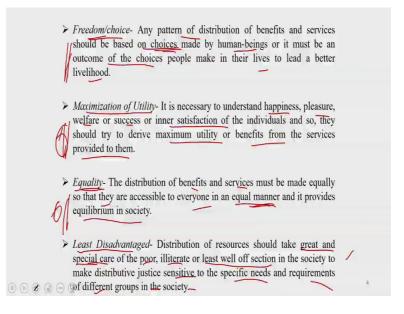
Suppose, a family has 4 members and their needs are different kinds of rooms, different quantity of grains than a family of 2 or a sick man's requirement for the medical care which will be different from medical requirements of a healthy man or the requirement of an adult which is different from the requirements of a child. This kind of distribution of justice argues that the distribution of wealth should be done on the basis of requirements or needs of different individuals in society.

One of the famous Marxist Maxim is that to each according to his capacity, to each according to his needs, that means, everyone should contribute according to, his capability or skills, but rewards should be given on the basis of his or her needs. In this ideal conception of communism, he conceptualizes a society, where distribution of the resources would be based on the needs of individuals. However, the individual will participate in the society or economy, according to, his capability or skill.

The problem, here, is in the idea of needs. So, the need principle of distribution is possible, when society had enough resources to meet the needs of all sections of society. So, that creates a kind of problem for the distribution of wealth. The other more convincing or somewhat, more just principle of distribution is regarded as the principle of desert. Desert basically, mean merit or so, it refers to the individual efforts or merit which helps him or her, to earn an additional income or an extra income and he/she deserves that extra income which may be, relatively, higher than the rest or others. He or she deserves to save or keep that extra income.

The desert appraisal basically, means that rewards should be based on the capability or skills of the individual. So, if, the individual is putting an extra effort which is innovative and he is willing to take risk or be an entrepreneur. Naturally, he or she should have more rewards and that is perfectly, justified. Because it is result, of his or her merits or efforts. The second principle of reward is based on this idea of what is called desert or merit in society. Thus, the distribution of resources should be based on the merit of individual and not his or her needs.

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The third principle is what freedom of choice is, that means, any pattern of distribution of benefits and services should be based on the choices made by human-beings or it must be an outcome of the choices of people made in their lives to lead a better livelihood. So, the choice principle is closer to the libertarian ideal of meritocracy or distribution of rewards and resources which are shared. It is understood that individual should be given freedom or liberty to take decisions or make choices. And if, the individuals are provided the conditions for making choices or to take decisions, then if, the outcome of such decisions or choices are different or unequal, then it should not be a problem. There should not be an attempt to emphasize on equalizing the reward.

The focus is about providing the individual with a choice or freedom to make decisions. And once, they are given those conditions of making choices or freedom to make decisions, then the outcome of such decisions or freedom of choices should be acceptable to everyone. The third is about maximization of utility, that is, the principle of utilitarianism which is necessary, to understand happiness, pleasure, welfare or success or inner satisfaction of individuals. So, they should try to drive maximum utility or benefit from the services provided to them.

This ideal of re-distribution is based on the principle that distribution or re-distribution of resources should be made on the principle which will lead to the maximization of happiness or welfare or pleasure of the maximum number in society. Similarly, it is for the individual, if such distribution is maximizing his or her individual happiness, welfare and pleasure, then such re-distribution are just. It works for the state or community or society on the one hand. It also, works equally, for all individuals. If such distribution is about maximizing happiness, pleasure or welfare of individuals in society, then it should be the just principle of distribution.

The principle of equality is based on this formal idea that the distribution of benefits and services must be made equally. So, that they are accessible to everyone in equal manner and it provides equilibrium in society. This principle of equality, as I have discussed can be understood with this idea that we should treat two individuals coming from different backgrounds, with different sets of characteristics, equally. And if we do so, will the outcome be a just outcome or a fair outcome.

The equality principle believes that everyone should be given benefits and services which should be equal and same to the rest of individuals, and that way, the society will be a more equal society. But this kind of focus on equality in the formal sense, do not really, transform in creating into an egalitarian society, where the different groups or societies are not on the same level. They do not have the same level of resources or same opportunities.

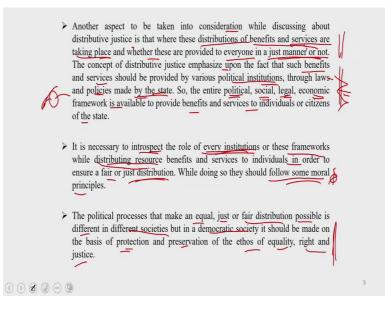
Now, in the absence of the same or equal resources or opportunity, if the laws treat them equally, then, outcome will never be the just outcome. Therefore, the equality principle is not always, a valid principle of justice. The third is a last one which is the least disadvantaged principle that believes in the distribution of resources which should take great and special care of the poor, illiterates and the least well off sections in the society, to make distributive justice, which is sensitive to the specific needs and requirements of different groups in the society.

So, we will discuss about these two ideals to treat everyone, equally, that is, the basic premise of justice or fairness and the idea of how, we can deviate from this equal principle. The ideal and commonsensical understanding of justice should be to treat everyone equally, distribute resources of the society or state equally, among everyone that would be the just distribution.

That is the kind of commonsensical understanding of justice as a distributive concept. But it is insensitive, to the different needs, status, conditions of living of different sections of the society and their needs. Therefore, for example, in Indian society, we have Dalits or women or religious or ethnic minorities, and they lived or their threats or their conditions of existence are not similar to everyone else. If the Indian state has the single, equal or the same principle of laws applied to everyone, then society will not remain hierarchical.

The condition of existence will remain differential from each other and inequalities will not prevail. Now, to create equality is to ensure justice. What is required is a differential treatment depending upon the legitimacy or justification for such deviation. This principle of equality and when, and where deviation from such equality is to justify, difference principle as it is justified or not. We will discuss about it when we will discuss Rawls theory of justice.

These are some of the premises for distribution of wealth and resources in the society and any society, that tends to create its society, more just, or egalitarian, it follows one of these values or sets of values. So, equality with least disadvantaged or married ones with needs.



Now, another aspect to be taken into consideration while discussing about distributive justice is that where are these distribution of benefits and services are taking place and whether these are provided to everyone in a just manner or not.

The actual implementation of justice or distribution of resources requires that where these distributions are done, who are the beneficiaries or are these distributions based on certain just principles or not. The concept of distributive justice emphasize upon the fact that such benefits and services should be provided by various political institutions through laws and policies made by the state. So, the state has a role to play. Here, it is the difference which we need to take into account which is a procedural notion of justice.

The procedural notion of justice or substantive notion of justice, we will discuss in some details in the next lecture. But here, perhaps, it is necessary, to understand that the justice and implementation of justice is possible by laws. The state has a role to pass or enact a law which should be just. Now, this enactment of law may or may not treat everyone equally. It may be unjust or just as well. The political philosophers, tries to argue for a law which will lead to a just outcome.

The philosophers who believed in the law, itself has a mechanism for ensuring justice in the society. He is regarded as someone, who argues for the procedural notion of justice. They argued, if laws are just the implementation of it, it will lead to a just outcome. However, the substantive notion of justice talks about not merely, the procedure or the laws, but also, the outcome of just law. We will discuss about this difference and discuss about it in the next law. Here, the point is the distribution of resources and it is provided by the political institutions through the laws and policy made by the state.

The entire political, social, legal and economic framework is available, to provide benefits and services to individuals or citizens of the state. So, in the re-distribution of the resources, the whole mechanism of the state, its institutions, laws and policies are involved in the distribution. Now, whether that distribution is just or not requires certain criteria to be made and whether that distribution follows some of the values which we have just discussed. Also, whether, some or few or many are excluded from such distributions or not.

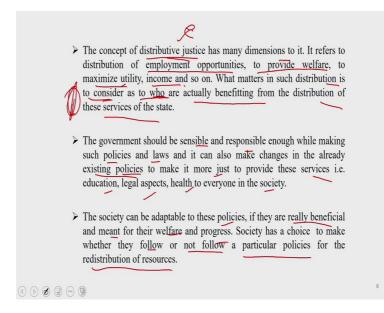
It is necessary, to introspect the roles of every institution or these frameworks while distributing resources. The existing structure, that means, the political, social, legal and economic structure in the society. Now, we constantly, need to introspect or assess the role of every institution or these frameworks, while distributing resources, benefits and services to individuals in order to ensure a fair or just distribution. While doing so, they should follow some moral principles and the moral and normative principles make the distribution of resources or the principles on which the distribution is based on a contentious issue. There we see, how different political philosophers or intellectuals argued about different principle of justice.

So, starting from John Rawls to Robert Nozick, to feminist critique and many others, we will discuss in the following lecture. This distribution of resources requires an assessment or introspection of every institution or frame work that is, prevailing in the society. Now, while introspecting, the role of this institution or framework, we may or may not continue with those frameworks on institution.

We want some new institutions or we may, radically, alter the existing structure of institutions and framework for the re-distribution of resources, to make it, more just or make it fairer. The political processes that makes an equal, just or fair distribution as possible, in different societies. So, different societies have different political mechanisms for the distribution of resources which will be just or fair. But in a democratic society, it should be made on the basis of protection, preservation of ethos of equality, rights and justice.

So, the necessary, moral, normative concern which guides the distribution of resources in a democratic society or state is the protection or preservation of equality, rights and justice. Although, the political mechanism is something which plays a significant role in the re-distribution, it may, vary from society to society. But in a democratic society, it must be based on the principles of protection and preservation of equality, rights and justice.

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The concept of distributive justice has many dimensions to it. It refers to many kinds of distribution. First, it is the distribution of employment opportunities, to provide welfare, and to maximize utility, or income. The distributive justice is about all these things like, employment opportunities or equality of opportunities as we will discuss. So, employment opportunity or the welfare mechanisms, such as, medical care, healthcare, pension, social security schemes, the maximization of utility and income is also, part of this distributive concept of justice. Thus, what matters in such distribution is to consider as to who are actually, benefiting from the distribution of the services of state.

The problem with distribution is at two levels. First, it is at the theoretical and legal level as to who is going to benefit from the policies of state or re-distributive policies of the state. The law, itself, poses certain limits or definition about the beneficiaries of its policies and all. The second is about the implementation. So, when the laws are implemented, the chances are those who are intended to be benefited by these policies are not the actual beneficiaries. But those who are already, better off or are privileged or resourceful are getting extra benefits out of this policy of state.

The distributive policies of the state talks about both the theoretical level, to ensure the rightful or those, who are actually, required the benefit of state and it should be provided resources. And also, those who are better off or those who are already, privileged, they should not manipulate this provision for their benefits. The principle of justice, argues for creating a law or formulating a policy which will be just for everyone and also, what are its implementation.

The government should be sensible and responsible enough, while making such policies and laws. It can also, make changes in the already, existing policies, to make it more just and to provide these services such as education, legal services, health to everyone in the society. The government constantly, tries to formulate or to make implementation of an earlier policy, if it is just to be more effective, or to be more economical, to target the real beneficiaries of these policies and programmes. It can also, formulate new policies or new programs for the welfare of every citizen in the state.

The society can be adaptable to these policies, if they are really, beneficial and meant for their welfare and progress. Society has choices to make whether they follow or not follow a particular policy for the re-distribution of resources. The re-distribution of resources is something, which can constantly, alter and modify, depending upon the new requirements of society. The society may, follow the earlier methods of re-distribution, but it can also, follow the new method of re-distribution depending upon whether that new mechanism of re-distribution is in the benefit or welfare of everyone in the society or not.

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Many writers and philosophers approved of such moral principles. Distributive principles are recognized for providing moral principles or a moral guidance for making such choice. For example, Rawls Difference Principle argues for making changes to the existing basic structure of society that can improve the conditions of the worse off and make various prospects and opportunities better for everyone in the society. > There are certain methods while making distributive justice. The method is necessary to make a choice out of different principles or distributive principles in terms of which principle will lead to what kind of a distribution of benefits and services to individuals. Philosophers like John Rawls used the method of wide reflective equilibrium which we will discuss in the next class. > Many philosophers argue that a democratic process or method of distributive justice is necessary for sustaining a fair and equal distribution of resources in society.

The many writers and philosopher approved of such moral principles. So, the distribution of the resources required some moral or normative concerns on the part of state or society. Thus, society believes that everyone should be treated equally. That is a kind of moral and normative judgement. Now, society may also, believe that since our society is not equal so, let us give preferential treatment to someone. So, we call it reservation. But reservation deviated from this ideal of equal treatment, yet, its deviation is justified in the name of creating a level playing field or giving an equal opportunity to everyone, or preferential treatment, therefore, is justified.

These are some of the normative, moral concerns which society as a whole has a collective entity. It decides and justify, certain distributive mechanism. The distributive principles are recognized for providing moral principles or a moral guidance for making such choices. For example, Rawls difference principle. Rawls theory of justice is one of the principles of justice which is a different principle that argues for making changes to the existing basic structure of society which can improve the conditions of the worse off and it make various prospects and opportunities better for everyone in the society.

The Rawls theory of justice talks about creating a more equal and just society. In creating a more equal and just society, he also, justified the difference principle on the condition that it will improve the conditions of the worse off in the society or the least disadvantaged in society. It leads to create a society which will be more equal and more just. So, the question of morality is deeply, embedded in the question or discussion of justice which we will come again and again, when we will discuss different theories of justice in the next class.

There are certain methods, while making distributive justice. The method is necessary, to make a choice out of different principles. At any given point of time, there can be many multiple options. For example, on this question of whether we should give reservation to the historically, and socio-economically, disadvantaged section in Indian society or not. Now, there are many arguments in favour of such kinds of mechanism, but there are also, arguments against such mechanism now. At any given point of time, on the issue of redistribution, we have multiple principles or mechanisms argued for the re-distribution.

Now, which principle or mechanism is regarded as most suitable or more just or which principle will lead to the just outcome is something that the society needs to decide collectively. So, it requires the moral or normative judgement on the part of society as a whole also. The distributive principle in terms of which principal will lead to what kind of distribution of benefits and services to individuals. Philosophers like John Rawls used the method of wide reflective equilibrium. We are going to discuss this in the next class.

So, we will discuss about the reflective equilibrium in the next class. Many philosophers argued that a democratic process or methods of distributive justice is necessary, for sustaining a fair and equal distribution of resources in the society. The broader consensus about distribution of resources is it requires a moral or normative judgement on the part of society, the democratic process or method of re-distributive justice. That means, which does not favour or it is not partial to anyone, even if, it serves the differential needs of different sections of society. So, many philosophers, argued that a democratic process or method of a re-distributive or distributive justice is necessary, for sustaining a fair and equal distributive or distributive justice is necessary, for sustaining a fair and equal distribution of resources in the society.

These are some of the contentious issues as it is related to the idea of justice as a distributive concept. In the next class, we will discuss about the procedural and substantive notions of justice and also, Rawls theory of justice as fairness.

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Topics that we have discussed today, you can refer to some of these books like Rajeev Bhargava and Ashok Acharya's - *Political Theory* and also, Hoffman and Paul Graham's - *Introduction to Political Theory*. Then, from Catriona Mckinnon, you can refer to come *Issues in Political Theory* and Robert Nozick's- 'Distributive Justice'; you can also refer to understand some of these issues which we have discussed. So, that is all for today.

Thank you for listening. Thanks.