

Justice and Democratic Processes as an Alternative Approach to Conflict Resolution for Peace, Substantive Democracy and Sustainable Development

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ABSTRACT

The question that is fundamental in the overall analysis of the study of “Justice as an alternative approach to conflict resolution” is to ask whether the concept of justice as fairness by virtue of its neutrality can successfully analyze, tackle and examine the entire gamut of conflicts and if there is enough room and space for such endeavor, then can we say that justice could possibly serve as a mediator between the conflicting parties? And if it could emerge as a viable and feasible option as a meditative role, can it be considered as a better alternatives which will in a way not only act as a primary key to unlock and defuse the conflict for a durable, just and meaningful solution but also for the larger interest of peace, growth, sustainable development, equity, national and global security and meaningful democracy. Therefore this paper would primarily attempt to examine the conflict within the framework of justice and peaceful democratic processes as an alternative to Conflict Resolution. It will also attempt to highlight and flag off the importance and relevance of Justice for peace, sustainable development, social justice, and gender equity for the realization of substantive democracy and a just society.

Key Words : Justice, Peace, Conflict Resolution, Negotiation, Mediation, Democracy

INTRODUCTION

The primary objective of this paper is to explore the questions and processes of conflict resolution taking into account the varied and the increasing nature of disputes, crisis and conflicts in varied aspects of political, social, cultural, economic and environmental issues eventually leading to violent conflict, crisis, war and destruction. Following which, these growing uncertainty and its implications both at the international and national level not only necessitates the quest to mitigate conflicts but also provides an impetus in the genuine search for conflict resolution, peace and development. Accordingly, there are different contestations, competing concepts, narratives and approaches to address and resolve the multiple conflicts. However, the dominance of viewing within the lens of security and power along with the politics of geo

political mapping and strategic interest to a large extent has led to intensification and multiplication of conflicts. This in turn seems to have negated and discounted the various methods, strategies and democratic processes of dialogue, communication, negotiation, mediation, and persuasions as a mechanism to tackle the tension and mitigate the inherent conflicting positions. Moreover, delving within this diverse prism of security, geo strategic political calculation and, entrenched economic interest alone in a way seem to have failed to capture the core contentious issues and resolve the complex issue as reflected in the continuity of conflicts. Hence, these limitations, loopholes and the drawbacks of these approaches necessitate to seek beyond the field of employing merely the temporal strategies for a more efficient and pronounced alternatives which will dispassionately interrogate with fairness especially within

the framework of Justice and peaceful democratic process towards a meaningful, just and durable solution for peace, meaningful democracy and sustainable development. Thereby, in the light of the discourse it will seek and attempt to address as to how the concept of justice as one of the viable alternatives might in turn bridge the gap between the embedded contradictions and differences and in the process how it would mediate the tension to configure and transform the conflict into a meaningful solution.

Accordingly, the nature of the study of state, society and its constituent element like culture, polity, economy and territory of a regime, state, region, Institution or organizations is a complex and difficult exercise especially when the politics of the people is conditioned, shaped and largely determined by deeply embedded conflict and violence. It also becomes all the more difficult when there is a constant contestation, competing concepts and parallel conflicting claims on the whole subjects and terrain of the politics, power and identity of the region. At the same time, it attained a certain kind of ambiguity, vagueness and murkiness to understand the politics of such society where the conflicts are protracted and entrenched over a period of time. Therefore to specifically study the politics of conflict and the process to resolve the conflict between and among opposing parties, with special reference to conflict resolution not only demands a viable alternative approach but also an earnest endeavor, inquiry, analysis, critical reflection so as to trace and solve the core and contentious issues in an attempt and an effort to wipe out the pertinent and persistent conflict.

Entering with this conditions and situation within the framework of conflict resolution, the theme and the focus is to seek and explore an alternative approach to capture the root cause of the conflict in relation to the realization of durable conflict resolution. Following which, it is also an effort to interrogate, inquire and explore what are the hindrances, obstacle and the loopholes for the continuity of the conflict. Further in delving into the multi-facet and contested narratives of the tension and contradictions, it becomes increasingly difficult as to how, why and where to begin on account of the numerous forms of the nature of the conflict that need to be seen, understood and interpreted correctly in the context of what we really are trying to arrive in a serious attempt to tackle the long pending issues.

However, though difference approaches of conflict resolution seemingly appears to have skirted and bypassed

the once perceived irreconcilable differences in most cases of conflict, yet on a critical note often resulted in bypassing the real issue. On the contrary, it has led to the multiplication of conflicts along with the increase in the parties to the conflict which ultimately make the questions of peace, development, democratic peace process and the effort of conflict resolution seemingly a herculean task to be achieved. It also reflects the reality that the actual problem persists, without much breakthrough and significant outcome which lead us to conclude that many of the present political climate, context and situation that has a history of conflict and a process of conflict resolution is bereft of a meaningful and a just solution. Taking this outcome into account, reveals the importance and the vitality of the methods that are devised, employed and applied in the process of tackling the tension. Eventually it urges us to interrogate and inquire critically as to whether the modalities and the framework that are applied have been sufficient and capable enough of capturing the full complexity of the conflict and most importantly, in turn justified in reducing the conflict in the real sense. Thereby the failure to answer this pertinent and important question satisfactorily necessitates us to review, reflect and reexamine the mechanisms of conflict resolution. Rather it goes beyond those issues and in turn seeks to address and strive towards resolving the impending conflict in the end. Therefore, the urgency and the need for alternative strategy for solution become very crucial on account of these limitations.

Taking all the different multiple conflicts and measures and nuances that were adopted and a reflection into consideration, which in a way can be said to be the effects of an ill equipped attempt to bring peace and resolution to a protracted conflicts only proves the need and urgency for a sincerity in approach followed by a novelty in the proposed solution. However, it is important to note and should take care of the very fact that varied conflict and crisis should not be read independently from the historical, socio and economic processes that structure, construct and weave the overall politics of a state or region. On the contrary, a critical comparative study in consonant with the relational aspect of the past, present and the future have to be carefully examined on account of the implications that one could shape over the other. In doing so, it seems to indicate that most of the current crisis takes place due to the consequences of the faulty policies and methods that were employed in the past. This in turn reveal the limitations in the path chosen to

mitigate the tension and at the same time it bring to light the very fact that the peace process and the conflict resolution as a concept that is tied to the notion of temporality, force, power struggle devoid of sorting out a meaningful solution. This can be inferred from the deadlock, stalemate and the delay in the realization of a just solution signifying the urgency to reformulate, review and search for a suitable alternatives to arrive to a probable solution.

Most importantly, the merit of this study lies in an attempt to critically and rationally seek an alternative approach which may finally yield, enable and fructify to resolve the pertinent and persistent conflicts which is till date perhaps seemingly construed as an irreconcilable, rigid and permanent differences into one of reconcilable, flexible and temporal issue that can be resolved based on rational deliberation, debate, discourse, negotiation and mediation. Taking this idea into consideration, we will embark upon an approach of opting for an alternative paradigm of the concept of justice which might be largely responsible, instrumental and fundamental in the realization of just, durable and peaceful solution. Thus, it will essentially analyze the presence and the absence of justice in the previous attempt towards conflict resolution and in doing so it will also examine into the significant and crucial role of justice in the conflict resolution and the possible impact, consequences and dividends that would be accrued and accompanied out of its genuine and sincere application.

The Role of Justice as Possible Alternatives:

To begin with, the theme of the study centers and concentrates on the decisive role of justice in conflict resolution. This in a way indicates, reflect and implies the importance of the subject of conflict in particular and the corresponding impact and consequences on the other. However, despite the centrality and the importance of the concept of conflict and varied theories of conflict resolution, the primary focus would not be on situated and located on the competing and diverging

conceptualization of conflict.

Nonetheless, a passing reference on some of the definition of conflict is highlighted in one of the generalized and attempted criteria for defining the meaning of conflict developed by Christopher Mitchell and Johan Galtung which ‘breaks conflicts down into situation, behavior, and attitudes, with each heavily influencing the others’.¹ Accordingly Mitchell define conflict situation as “any situation in which two or more social entities or parties perceive that they possess mutually incompatible goals.”² On the other hand, Louis Kriesberg defines conflict as one that occur “when two or more persons or groups manifests the beliefs that they have incompatible objectives”.³ Further Tim Jacoby observe and holds that ‘conflictive situation need not, however, be grounded upon actual issues or events. While realistic conflicts are based on past occurrences that have led to the perception of incompatible goals and conflicts of various intensities and scopes, unrealistic conflicts may emerge from misperceptions and confusion, or may be pursued for the sake of conflict participation rather than any particular goals.’⁴ He also holds that ‘the majority of conflictive situations contain both realistic and unrealistic elements.’⁵

Entering into the discussion within this framework and understanding, the challenge before us is to pay attention towards the politics and the processes, approaches and dimension of conflict and the subsequent measures and step initiated towards conflict resolution. Most importantly, since the primary objective and the aspiration of this critical inquiry and reflection is to bring an end to the persistent conflict, so, the desire and the urgency to fructify, actualize, materialize and crystallize in a way demand seeking an alternative perspective to delve and mediate into the issues that are at hand. Consequently, stemming from this necessity to resolve the conflict, the concept of justice is introduced as an alternative approach to examine, clarify, and comprehend the discords of the opposing group. Its importance lies in the fact that in so far as conflict resolution is concern, justice in way represent and indicates the lack and the

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1. Tim Jacoby, *Understanding Conflict and Violence: Theoretical and interdisciplinary approaches*, (London: Routledge Taylor & Francis Group, 2008), 19.
 2. Ibid.
 3. Ibid.
 4. Tim Jacoby, *Understanding Conflict and Violence: Theoretical and interdisciplinary approaches*, (London: Routledge Taylor & Francis Group, 2008), 19.
 5. Ibid.

need for a fair, neutral, impartial and disinterested subject and body to establish a just and durable solution.

However, Justice is a complex concept with varied meanings and conceptions. It is not easy to explain and the more difficult challenge is the realization and its practical achievement. It is sometimes used as a legal concept and sometimes as a moral one. Etymologically, the word “justice” is derived from the Latin words “Jungere” which means “to bind, to tie together” and ‘Jus’ meaning ‘a bond or tie’. Thereby, justice as a concept that binds or joins together, it serves to organize people together in a right or fair order of relationships by distributing to each person his or her due share of rights and duties, rewards and punishments. Moreover, as a moral political-value, justice is closely interlinked with such other moral political values as liberty, equality and fraternity. Therefore, traditionally, the principle of justice was taken to be a principle which balances or reconciles the principles of liberty, equality, etc, personified in the form of the blind-folded figure that holds a scale on one hand with a sword on the other. Despite this simple and generalized form of defining and understanding the concept of justice, yet there are multiple, contested and heterogeneous conceptions of justice. This diverse, multifaceted and conflicting conceptualization and contestation over the theme and nature of justice understood in the light of its understanding, explanation and application in turn throws up and bring to our attention the difficulty and the complexity of construing as well as the problem of relating its meaning and explanation to cohere and contextualized with the issue at hand.

Accordingly, various thinkers and philosophers have adopted different methods, approaches, concepts and theories on justice to mitigate injustice and enhance justice. But the perplexity and the most difficult question pertain on the notion of what is justice? And what are the components and the constituent of justice remains unanswered till date. According to Plato, in his book ‘Republic’ the plan and motives of the inquiry of the

philosophical question on justice is to interrogate what ‘is a good man, and how is a good man made’ and at the same time to simultaneously correlated and link it with the idea of ‘what is a good state, and how is the good state made?’⁶ His conception of justice is to create an ideal state based on the specialization of one’s station to create social order.⁷ In the similar trend of thought Aristotle had in a different way define justice as the treating of equal equally and unequal unequally in proportion to their injustice. For him, in order to understand and distinguish between justice and injustice, one must take into account three conditions namely ‘(1) what kind of actions are they concerned with, (2) what sort of mean justice is, and (3) between what extremes the just act is intermediate.’⁸ He further elaborates the concept of justice and injustice by stating that “all men mean by justice that kind of state of character which makes people disposed to do what is just and makes them act justly and wish for what is just; and similarly by injustice that state which makes them act unjustly and wish for what is unjust”.⁹ In addition, he delves into another form of justice where virtues find its fullest expression when it exercises justice not only to himself but in relation to the good of one’s neighbor.¹⁰

On the other hand, Iris Marion Young conceptualized and view justice from the lens of domination and oppression rather than merely looking from the prism of distributive justice.¹¹ In doing so, she “brings out issues of decision making, division of labor, and culture that bear on social justice but are often ignored in philosophical discussions. It also exhibits the importance of social group differences in structuring social relations and oppressions”.¹² Besides, it is also important to note that the feminist, Marxist and the communitarian conception of justice are also crucial and critical in not only unraveling the complex and competing nature of justice but also in understanding the socio-cultural, economic and political nature and context of the society for meaningful, inclusive and equitable conflict resolution

6. Ernest Barker, *Greek Political Theory: Plato and His Predecessors*, (Delhi: Surjeet Publications, 2006)

7. Ibid.p.203.

8. Aristotle, *The Nicomachean Ethics of Aristotle*, trans. David Ross (London: Oxford University Press 1925), 106.

9. Ibid.

10. Ibid., 108.

11. Iris Marion Young, *Justice and the Politics of Difference*, (Princeton, New Jersey: Princeton University Press, 1990), 3.

12. Ibid.

However, out of the many theories that has been advanced by leading contemporary political philosophers, two of the theories that have mainly revived our interest and captured our attention on the notion of justice are the procedural justice of John Rawls and substantive justice of Amartya Sen.

One of the path-breaking works in the domain of justice has been provided by Rawls. Its liberal egalitarian conception of justice is basically a critique and corrective to the liberal utilitarian principle of the greatest happiness of the greatest number where it can result in maximizing the welfare of the majority at the cost of the minority. His theory of justice derives inspiration from Kant's moral idea of the freedom and equality of every human being who is to be treated as an end in himself or herself and not as a means to the ends of others. Justice according to Rawls 'is the first virtue of social institutions'.¹³ Rawls principle of just distribution of social primary goods claims that his theory is a theory of pure procedural justice. By pure procedural justice he means that the justice of his distributive principle is founded on justice as fairness of the procedure through which they have been arrived at and that they have no independent or antecedent criteria of justice or fairness.¹⁴ Thus, Rawls theory of justice is about installing or conceptualizing a just institution and liberal egalitarian principle of justice to established procedural justice and bring social justice in society. His main subject of justice is the basic structure of the society in the form of major social institution which is instrumental and responsible for the distribution of the "fundamental rights and duties and determine the division of advantages from social cooperation".¹⁵ In addition the importance of the basic structure lies in the fact that 'they define men's rights and duties and influence their life prospects'¹⁶ and at the same time the essence, nature and the significant aim and objective of the theory of justice is to established a 'perfectly just society'.¹⁷ One of the interesting features of Rawls theory of justice as fairness implies the initial conceptualization and contract

of the parties of conflicting claims and interest based on their situation and hypothetical condition acknowledged and accepted as 'rational and mutually disinterested person'.¹⁸ Further the merit of the contract is also envisaged reiterated, justified and reinforced by assuming and recognizing the very fact that the principles of justice are conceived and considered to be chosen by rational persons.¹⁹ Hence, the justification of the priority of the right over the good in justice as fairness turns out to be a central feature of the conception.

Taking all the different narrative, interpretation, contestation and conceptualization into account, and as a result understood in the light of this complex and competing concept and theorizing of justice, it is really a very difficult task to privilege one explanation, concept and justification over the other. However despite all the variations, differences, diversity and fluidity of the understanding of the concept of justice, it is also interesting to note and at the same time important to realize that the primary objective of all the architect of the idea and the concept of justice perhaps pertains to enlarge justice and mitigate injustice. Following which, in the similar note the main focus of this study using an alternative and approach of justice is not to involve and entangle within complex and multiple contestation over the nature of perfect justice. Rather, it is an attempt to introduce, understand and apply all the viable and feasible conceptions of justice to the prevailing social and political injustice to minimize injustice and maximized justice. And in the light of this debate, the specificity and the core intention of the approach from the prism of justice particularly to the issues of persistent conflict and the consequent process of conflict resolution is to contextualized, examine, analyze, engage and tackle the crucial and contentious issues within the framework of justice so as to provide a just, lasting and peaceful solution and eventuality fructify into a just society.

However, on account of the different context and the nature of the subject of study especially in terms of

13. John Rawls, *Theory of Justice*, (London: Oxford University Press, 1971), 3.

14. John Rawls, *Theory of Justice*, (London: Oxford University Press, 1971), 84-85.

15. *Ibid.*, 7.

16. *Ibid.*

17. *Ibid.*

18. *Ibid.*, 13.

19. *Ibid.*, 16.

the conflict in the opposing and contending claims over certain issues, it become necessary and important to chose certain concept of justice which will be fundamental and instrumental to suit and fit into the given context without being rigid and extreme in the position of claiming superiority of one concept over the other in the overall political discourse of conflict for peaceful solution. Entering into this framework, it involves an examination and an inquiry as to how to synthesis the heterogeneous claims as well as mediates and transforms the complex processes of discordance into one of concordance and peaceful-coexistence. Following which Rawls concept of justice as fairness implies a procedural justice owing to the rational choice of principle through the institutionalization of this agreed principle, is taken as the basis for the study on conflict resolution. Though justice as fairness is opted as the base yet we will not delve into the competing stands of how certain principles were preferred over the other.

Keeping this in mind, on the contrary the concept of justice as fairness with special reference to conflict resolution primarily intends not to view and confine to the contestation of the kinds or types of justice instead it is chosen as to inquire and explore as to whether justice as fairness within the meaning and the centrality of impartiality and neutrality would be a better alternative as a tool to mediate and deal with the deeply embedded conflict. In doing so, instead of focusing our attention, time and energy on the contestation of the principles of the concept of justice, it would be better to invest time, energy and space for identifying the core contentious issues of conflict and later on concentrated on tackling those issue that pertains to a particular historical processes and context with the concept of justice that is closely link with dispassionate interest, impartiality and neutrality. Here, the importance of the notion and the application of impartiality arose all the more in the context of differences in lived experience of diverse culture with different worldviews as ‘no contemporary society is really homogeneous’.²⁰ Thereby, “a theory of justice cannot simply be a theory about what justice demands in this

particular society but must be a theory about what justice is in any society”.²¹ Accordingly, Barry pointed out and argued that the theory of justice that generates and reach a reasonable agreement without coercion but with consent is considered in short, ‘a theory of justice as impartiality’²² Further, another important element and traits of “justice as impartiality is to mediate between conflicting conception of the good”.²³

However, the essence of neutral position and the characteristic of impartiality that the concept of justice particularly with special focus to the conflict and the process of conflict resolution between and among the antagonistic and opposing parties lies in the fact that such an approach would help better and contribute to understand, comprehend, clarify and capture the different viewpoints, claims and tension which has been otherwise dealt, assessed and approach from different perspectives and dimensions. Consequently, it might possibly act as a bridge that connects the extreme standpoint and led to the dissolution of the conflict in a fair and just manner. At the same time contextualizing this idea of impartiality in particular and the overall concept of justice in general as an alternative would also be instrumental in bringing about a fundamental and positive change and outcome different from the previous paradigm and approaches which seems to be one sided, partial and biased to a particular group and at the same time exhibit the temporal measures, steps and strategies to subside the tension momentarily.

Corresponding to the idea of what constitute the nature of justice, it is remarkable, interesting and at the same time fascinating to see the focus and the changes that has evolve over a period of time on the meaning of justice. To begin with, when a question arose as to what is justice? It is understood and seen that “in Greek political theory justice was a virtue, hence the focus of Greek political theory inevitably returned to the just person. Justice was something that one had to do” where as in contemporary discourse the focus has shifted to social justice as the ‘justice of institutions’ which imply and indicate ‘not a virtue of people but of institutions’²⁴ The implication and the consequences of this lies in the

20. Brian Barry, *Justice as Impartiality*, (New York: Oxford University Press, 1995), 5.

21. *Ibid.*, 6.

22. *Ibid.*, 7.

23. *Ibid.*, 12.

24. M.W.Jackson, *Matters of Justice*, (London : Croom Helm, 1986), 8.

fact that “justice is not something that I do; it is something that is done to me; it is something that happens to me through the machination of institutional rules. Obviously it is human beings that apply the rules, but the focus of the justice is on the rules. To Greek political theorists the purpose of the social justice of institutions was to make possible the virtue of personal justice. For the Greeks, institutions were means to the end of justice, but in our times these institutions have become the end of justice itself”.²⁵

The shift and the difference in the meaning between the classical and the contemporary notion of the concept of justice would also demand a deeper analysis, inquiry and reflection on the historical processes of the transition from that of the ancient concept to the modern idea and understanding of justice. As a result, if one were to critically inquire, it might also be possible to assume that such a shift in the concept as well as its application arose on account of the increase in the miscarriage of justice due to the utilitarian mode of taking decision. Thereby, following the Rawlsian critique of the utilitarian form of justice on its inadequacy to include every one especially the minorities in particular, he in a way tries to expose the flaws in the previous method of arriving at a decision and on the contrary explore and offer the necessity of institutionalizing certain principle which he term as a Procedural Justice following a rational discourse. His explanation and the rationale behind this exercise can be primarily attributed to outline as to whether such principles and procedure exist and if so, then to proceed further as to how can that reasonable procedure be established. The significance and the merit of this concept can be understood in terms of the important roles the institutions play in the deliverance of justice and injustice. However, complexities and difficulty might arise especially when it comes to the conflict between groups when it views the conflict resolution within the framework of securing collective justice. This in turn demands a more

comprehensive understanding of the various concepts of justice as well as the issues at hand. Since the main focus is on conflict resolution between and among groups, the context and the aim is to delve and address the matter with fairness, impartiality and neutrality, this necessitates the pre-requisition to institutionalize and actualize the impartial procedure and agency. In doing so, Rawl contribution is on how to find and formulate a reasonable principle through the agency of a competent and reasonable moral judge.²⁶ Then, he also dwelt upon the idea on the importance of possessing the traits of the sense of justice in determining those contentious issues with impartiality by the reasonable moral saints. Correspondingly, he also associates a competent judge with a quality of a ‘good investigator’ who in a way manifests and exhibits ‘intellectual virtues’.²⁷ After that, he then prescribes the conditions and characteristics for a competent moral judge in so far as it would facilitate for a fair and impartial outcome. Accordingly, he favored immunity of the judge from the consequences of the judgment. This is followed by a justification “on the grounds that fear and partiality are recognized obstructions in the determination of justice”²⁸ Next, he emphasized that the judgment rendered should be one of ‘an actual conflict of interests’ and not merely based on hypothetical speculations.²⁹ Further some of the other criteria, conditions, credentials and requirement that he stressed for a fair judgment includes ‘careful inquiry, certitude’ and maintaining stable and sustainable decision and outcome.³⁰

It is also interesting to note that Rawl specially invoke the concept of ethics to formulate and establish a justifiable and reasonable principle in a situation of conflicting claims and interests so as to arrive and linked with the rational judgment.³¹ Though the very notion of defining what and how it is rational in its entirety would be a real challenge which largely remains to be settled. Despite the criticism, flaws and the limitation of the

25. Ibid., 8.

26. John Rawls “Outline of a Decision Procedure for Ethics,” *The Philosophical Review*, No.2, Vol. 60, 182. <http://www.jstor.org/stable/2181696>.

27. Ibid., 181.

28. Ibid., 182.

29. Ibid.

30. Ibid.

31. Ibid., 187.

formulated procedure, the merit and the importance of this processes also lies in the fact that Rawls also gave equal importance on the capacity of certain principles to exhibit and bent towards a 'gradual convergence of uncoerced opinion'³² However the centrality, complexity and the critical assessment of a concept or a theory lies in the fact on how well it is able to contextualize, harness and channelized those ideas in the given situations. Taking this important question into consideration, Rawl too concentrated on the complexities as well as the perplexities of this dichotomy. Thereby, in delving and examining on this issue, he came up with an argument that the root of the problem in the incapacity or a failure to render a just action lies due to the absence of reasonable principle or due to the existence of a faulty principle. Therefore, for him the establishment and the existence of a just principles or procedure is a prerequisite for the just action. In similar note a just state is one in which just procedure define the affairs of the state. He also relate the importance of formulation of certain principles with special reference to the competing and conflicting interests in conjunction with the politics of identifying and granting which, why and how certain interest and claims ought to be given a preference over the other claims.

However, despite the drawbacks, loopholes and the limitation in the crystallization and materialization of this outlines, the essence and the importance of the discourse along with the possibilities that entails in the articulation of this alternative in a way reflect, indicates and reveals the need and the urgency for the formulation and institutionalisation of basic structure of social institutions. At the same time the intrinsic value of laying down certain minimal benchmark, yardstick and standard to rule the affairs of the state and international relations can be weighed more precisely, clearly and accurately by comparing with the absence of such kind of principles. In doing so, the absence would also imply in a significant way the non application of certain procedure or perhaps the non existence of such institutionalized framework whereby the overall politics of conflict and the subsequent conflict resolution would rather be shaped, determined and dependent on the power politics, convenience, one sided interest, coercion, entrenched economic gain, vote banks politics and many other vested considerations. The

foreseeable consequences of such kind of perspective to situate and locate the conflict depending on the wave of the power dynamics in turn deprived the other group and even the members of all the conflicting group, the chance to look and view from the prism of justice for a fair, durable, inclusive and a just solution perhaps that could circumscribed and pertain to any affairs of the state and the people. However, having this framework do not necessarily simplify and counter-balanced the whole contentious issues of differences. It will in a way persist with the debate and contestation of concepts in certain critical areas in pertinent questions like the one that Mac Intyre posed, 'In whose Justice? Which Rationality'³³

It is in the light of the above debate especially with reference to the question of the viability, feasibility and the practicality of the of the dialectics of the conflict and the conflict resolution, and as we sought to find a means to synthesized the heterogeneous claims, incidents and extremity, it merits an interrogation as to whether the concept of justice as an alternative approach can configure and emerge as a unifying theme out of the series of options that have been deployed in succession. Most importantly, can the notion of justice as fairness which is meant to be neutral and impartial between the conflicting claims mediate the tensions meaningfully and iron out the difference to bring a just solution? In asking so, it seems to shed a positive prospect on account of the inadequacy of the conventional methods that were applied. Thus, it guides us to the sphere of possibility wherein it will seek to understand and tackle the conflict better if one is to address the issues within the domain of justice and peaceful democratic processes. However, the projection of inquiry in this manner and the suggestion of probable solution within the framework of a new alternative of justice do not mean total negation of the whole processes of conflict resolution. On the contrary, it meant to say that the concept of justice must be taken as the base for the whole analysis and in the deliverance of justice.

Following which, there will be a diverse viewpoints, understanding and standpoint to the question of success and failure of the democratic peace processes and the efforts of conflict resolution. Thereby, one cannot quickly jump to the conclusion and nullify, dismiss and discount the whole attempt as a failure, as different approaches

32. Ibid., 188.

33. Brian Barry, *Justice as Impartiality*, (New York: Oxford University Press, 1995), 73.

in the course of the conflict in a way seems to justify that it has largely contributed to the de-escalation and mitigation of the conflict and cessation of violence to a substantial level in many cases. In addition, one can also credit the institutionalization of the democratic procedures as a successful outcome of the temporal measures adopted by the conflicting groups towards resolving the conflict. Thus, as a result, if one were to pass a quick impartial judgment it would perhaps be safe to say that these measures were responsible for bringing in changes. However, in the same vein of analysis, if one is to reach out deeper, it throws up a paradoxical picture that reflects a totally different story from that of the previous justification on the success of the process of conflict settlement. This put a big question on how far the process of conflict resolution has been able to address the real issues at hand? As for instances, the real picture of many disputes depicts the multiplication of conflicts, absence of democratic values, principles and ethics, reemergence of violence in different outlets, violation of human rights ultimately inking the whole situation towards a state of exception.³⁴ Most, importantly, in certain cases it seems to have arrived towards a situation, condition and a stage where no one emerges as a winner. Hence, in a nutshell the whole account of the exercise of the process of peace making and conflict resolution in such a situation can be deemed as temporal success bereft of any substantial solution.

Considering this kind of solution which is short-lived, the primary objective of this approach is to explore ways and means as to how can we find a meaningful, just and durable alternative solution. Then on delving into the questions of conflicts and the approaches that were mostly undertaken to hammer out an appropriate answer,

it seems to unravel that it has often fail to examine the root cause of the contention. Moreover, it also shows that the outcome were mostly based on the political exigencies to suit one's own vested interest rather than seeking to address the core issues to mutually benefit both the groups. Therefore, sensing the need to step out beyond the applied and tested method which is a short term in nature devoid of substantial outcome necessitates the induction of the concept of justice as the basis of mediation in the very process of conflict resolution. The expressed objective of introducing the notion of justice as an alternative perspective is to critically and rationally analyse the persisting conflict comprehensively in a neutral and impartial manner. However, it becomes all the more difficult when the questions arose as to how to concretized, crystallized and materialized the conceptualized idea and alternatives. Corresponding to which, since justice conceives as an impartial and neutral entity cannot act in a vacuum, it requires an institutionalization of certain principles in the form of a procedural justice³⁵ in conjunction with the establishment of a neutral agency to strive for the realization of a substantive justice³⁶ within the context of conflict resolution between the conflicting groups. Further, it is also interesting and important to note that Justice as a comprehensive subject, it entail and encompass every facet of discourse. Owing to which, its role and activity need not confine to certain specific areas. Rather the scope of study is very much in relation with the various issues of democratic values, principles, ethics, processes, practices and outcomes. This in the end will be able to demonstrate and explain how the principle and the action of justice are worth pursuing in the context of the quest for a meaningful conflict resolution.

34. Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, trans Daniel Heller-Roazen, California: Stanford University press, 1998), 10. State of exception is one in which one reaches a state of necessity, characterized by a "point of imbalance between law and political fact," and enters into a zone of indistinction, where politics has no value. This in a way seems to be a subtle project of creating a state of perpetual conflict and disorder which at the later stage transform and accepts lawlessness as a norm, where justice become an exception. Further, it also reveals the true nature of the intolerant state which and where there is disregard for heterogeneity, multicultural values and democratic principles and values. Thus, perhaps a way out of this deadlock would be to strengthen the very foundation of the state with the fibers of justice.

35. John Rawls, *Theory of Justice*, (London: Oxford University Press, 1971), 84-85.

36. Amartya Sen, *The idea of Justice*, (London: Penguin Books, 2009), 22. According to Sen, the notion of justice is not merely to recognize and establish just principles and institution, but rather the essence of justice goes beyond the institution and in fact lies in the realization and attainment of justice. Thereby, he focus on the social processes, duties and responsibilities of not only the state but also with the individual and communities for in the end it is the people who decides and act in the overall realization of a just society. As a result, he 'pointed out the mutual dependence of institutional reform and behavioural change for achieving justice.

However, failure to inject and harness the very notion and the act of justice as a neutral and impartial entity might recourse to the old path and pattern of non resolution of the conflict. The merit of the genuine application of the concept of justice lies in the fact that it will not only be instrumental in the mitigation of the conflict but also will be greatly responsible to address for short as well as the long term solution. However, since politics is also a process of conflict, competition and cooperation, it has a dynamic capacity to change and as a result, certain challenges and conflict too undergoes a drastic change over a period of time. In addition, the engagement of the democratic processes, policies and strategies with the conflict bring about a revamp in the structure and the institution in the course of the study of conflict. Though, this interaction and democratic processes devoid of justice generates positive changes in many instances but also bring in multiple forms of new conflict and injustice which get reflected in the form of increasing violence, politics of non-recognition, marginalization, institutionalization of discrimination, social exclusion, corruption, violation of human right etc.

Therefore, in order to counter the impact and the spillover effect of the non resolution of the conflict as well as non adherence to the democratic right, principles and values substantively from all the conflicting parties in a way necessitate us the urgency to adopt a multi – prong strategy and approach with justice as the foundation to delve the complex issues. Over and above, considering the diverse cultural, social and political setting within the state in a contemporary society, it demands an understanding to read within this context between or amongst the conflicting entities. Following which, justice need to team up with other concepts and practices like ethics, democratic principles, values and minority rights so as to comprehensively analyze and find a solution. In

doing so, it is important to incorporate the principle of golden mean³⁷ which tries to synthesis the extremities towards a concordance. Further justice demand the use of a fair procedure and processes and this in turn implies the use of the means of truth and non violence in the journey of conflict resolution.³⁸ Besides, justice being the first virtue of an institution according to Rawlsian notion of justice, it is necessary to take into consideration the other forms of virtue not merely for the sake of pursuing virtue but rather for the vital role that virtue itself play in the day today affairs of the society.³⁹ Accordingly, the call for the extension of the field of ethics, virtue, rights and other democratic principle apart from the concept of justice is to reformulate the term of discourse from the process of dehumanization to an alternate term of discourse that is to strive towards the process of humanization.⁴⁰

However, the pressing question at hand is to answer how to operationalise, actualize and translate all these principles into a reality and in conjunction with it to specify whose responsibility is it to deliver justice? In seeking to answer these crucial and critical questions, justice as neutral and impartial entity intent to maintain a consistent, coherence and uniform standard throughout the whole process of conflict resolution by establishing a just institution to arbitrate the core issues of conflict to realize justice. However, while it is true that the greater onus lies with the mediator and the leaders of the conflicting parties involve in the deliberation of differences, yet it is equally important to note that the consciousness, inclusivity and the quality of the discourse at all levels of society has a direct bearing on the outcome of the debate as well as on the final implementation. Thereby, taking this into consideration, despite the focus on the structural injustice, it is also important to note that at the end, “all responsibility is at some level personal, in the sense that

37. Aristotle, *The Nicomachean Ethics of Aristotle*, trans. David Ross (London: Oxford University Press 1925), ix. Here, he bring in the notion of virtue as a state of character concerned with choice , lying in the mean, which is the kind of mean that is relatively related to us that is determined by a rational principle.

38. M. K. Gandhi, *Hind Swaraj or Indian Home Rule*, (Ahmedabad: Navajivan Publishing House, 1938), 61-62.

39. Alasdair MacIntyre, *After Virtue*, (Indiana: University of Notre Dame Press, 2007), 273. He argues and maintained that virtue matters because it pertains to qualities necessary to achieve the goods internal to practice. Besides, it not only contributes to the good of a whole life but also it is related with the pursuit of a good for human existence. In addition, it also not only give us a worthy reason to exercise virtue for its own sake but also a basis for the exercise of genuine courage in the various affairs of life.

40. G. Haragopal, “People’s Struggles and Peace Talk”, (Lecture, Jawaharlal Nehru University, New Delhi, February 25th, 2014).

the individual is the central locus of ethical responsibility”⁴¹. Granted these political nuances at the background which have a deep implication in the final result, it gives a hint that the question of embedded conflict is not only a shared responsibility⁴² but also a collective responsibility for the fulfillment of collective justice.

Following which, it also indicates that every sensible member with a sense of justice ought to discern and delve at the core issue that constitute tension and contribute toward the project of resolving the conflict. Sensing the limitations, inadequacy, difficulties and the loopholes to materialize these ideas, it becomes more clear and imperative to explore how democratic processes and its constituent ought to operate. In connection with the above articulation within the context of conflict resolution, being a responsible person would “tries to deliberate about options before acting, makes choices that seems to be the best for all affected, and worries about how the consequences of his or her action may adversely affect others”.⁴³ Here in Sen asserted that democracy should be viewed as a form of government that rest on public reasoning and deliberation to fructify a substantive justice.⁴⁴

However the primary focus of the study of the role of justice in conflict resolution would rather concentrate on how justice as fairness, impartiality and neutrality could be mutually worked out and at the same time how such kind of agency need to be figured out in the interest of a fair conflict resolution. Situating this conflict within this alternative perspective in a way reinforced and justify that “no claim shall be denied possible satisfaction without a reason”.⁴⁵ Thereby, it throws up an interesting and fundamental question as to how the non- admittance and consideration of such pertinent conflict judiciously from the lens of justice could prove the assumption that such an exercise would rather lead to the multiplication, intensification and accentuation of conflict rather than to

mitigate and minimized injustice seems to be valid and true. It also seem to have partly reflected the above premise in the sense that several methods that have been applied to resolved the tension has on the contrary still colored by non resolution in many entrenched conflicts.

And in the light of this debate, it also becomes imperative and necessary to examine as to how the conflict and the injustice are interrelated and interconnected in the overall analysis and the search for conflict resolution. As conflict in a way indicates the presence of a pertinent differences and its non resolution might perhaps prove the inability as well as the unwillingness to take the responsibility of rectifying the flaws and the injustice that are involved in the course of the conflict. In connection with this line of thought, it is increasingly seen that the issues of past injustice and the consequent persisting conflict and injustice are gaining currency in the academic and the political community, ‘calling for more remembering, apologies and reparations’.⁴⁶ They extend the argument further by stating that “apologies and reparations are due to the injured communities. These arguments typically suggest that if political communities are to be moral, then they must remember the past-and not just the past they are proud of, but part of the past that are shameful”⁴⁷ In addition, it holds that “the path to a better future, these argument contend, lies in a better understanding and appreciation of how the injustices of the past affects patterns of oppression today”.⁴⁸ However, when we try to link, connect and contextualized the historical injustice within the protracted conflict, it seems to be all the more relevant to debate and argue not merely those injustices for “the challenge for some peoples is not just the injustice of the past but that they still suffer from injustice. Together, they experience what I call enduring injustice. The injustice they endure today is connected to past injustices. Instead of urging citizens and governments to take

41. Iris Marion Young, *Responsibility for Justice*, (New York: Oxford University Press, 2011), xii.

42. *Ibid.*, xvi.

43. Iris Marion Young, *Responsibility for Justice*, (New York: Oxford University Press, 2011), xiii.

44. Amartya Sen, *The idea of Justice*, (London: Penguin Books, 2009), 335.

45. John Rawls “Outline of a Decision Procedure for Ethics,” *The Philosophical Review*, No.2, Vol. 60, 192. <http://www.jstor.org/stable/2181696>.

46. Jeff Spinner- Halev, *Enduring Injustice*, (New York: Cambridge University Press, 2012), 3.

47. *Ibid.*, 4.

48. *Ibid*

responsibility for the past, I ask instead: which injustices from the past persist today and cry out for remedy?"⁴⁹ Thereby, in an attempt to study the interface between the injustice and the persistent conflict, the challenge that lies ahead before us is to critically review, reconfigure and re-examine as to why this particular conflict persisted and in conjunction with that what are the current injustices that still persist or in other words why those injustice persisted?⁵⁰ Thus, it recast the important point that 'certain past injustices matter because of the current injustices'.⁵¹

Following these observations and arguments, it will also be interesting to judiciously inquire and interrogate as to how the study of injustice is crucial and vital for the resolution of the conflict within the framework of justice. Simultaneously, it also seem to warn about the instability and the futility of adopting the wrong approaches for 'without a change in the course of action, the injustice will persist'⁵² which in turn seems to imply that conflict would still persist unless the conflicting parties opt for the right policies, strategies and alternatives.

Finally, considering most of the competing concepts, theories, policies and the injustice that is associated with the conflict, it appears that various discussions, discourse and the process of conflict resolution seem to have been overshadowed by giving extra attention to the symptoms of the discord. On the contrary, the real challenge of this study would be to answer as to how to materialize justice or to put in another word, who will act as the valid and legitimate agency with the sense of justice as fairness, impartiality and neutrality between and among the deeply embedded conflicting parties? Based on finding the right representatives, institutions, groups, society, space and environment for the rational deliberation and adjudication of the contentious issue, the merit and the success of the role of the justice in conflict resolution would be largely determined.

Therefore, as responsibility for justice is a 'forward looking'⁵³ strategy, we need to step out of the conventional methods of conflict resolution which seems to have deviated from the path of justice and peaceful democratic processes and instead reinstate justice as a core basis

for the realization of justice for durable solution, peace, sustainable development, equity and substantive democracy.

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49. Ibid.

50. Ibid., 6.

51. Ibid.

52. Ib Jeff Spinner- Halev, *Enduring Injustice*, (New York: Cambridge University Press, 2012), 12.

53. Iris Marion Young, *Responsibility for Justice*, (New York: Oxford University Press, 2011), xv.

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