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## **Distant Voices: Amartya Sen on Adam Smith's Impartial Spectator**

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### **Abstract**

For Amartya Sen, Adam Smith's notion of the impartial spectator is a device that brings "distant voices" into our moral deliberations in order to prevent us from the parochialism that can limit our views on particular issues. Whilst recognising its importance, this article suggests that there are some problems with the way Sen uses this in his *The Idea of Justice*. Tensions arise around issues relating to his interpretation of Smith, a one-sided and undialectical understanding of the operation of the impartial spectator, an ambivalence in Sen's approach between essentialism and cultural relativism, the capacity for people to carry out the demands of the impartial spectator and its efficacy in relation to real moral problems such as Smith's case of infanticide. The conclusion is that in the search for openness, Sen leaves his idea of justice with insufficient grounding to forge a dialogue that can act as a challenge to entrenched beliefs rather than simply accept them in a limbo of fragile co-existence.

## Introduction

In Amartya Sen's monumental *The Idea of Justice*, one of the bedrocks of what he considers to be crucial for dialogue in our moral and political deliberations is Adam Smith's notion of the impartial spectator.<sup>1</sup> For Sen, what this device brings to our practical reasoning about what is just or unjust are "distant voices" that we need to take into account if we are to reach an objective judgement over a particular issue. To this end, I offer a critical assessment of Sen's use of Smith's framework to try and tease out some problems and ambiguities that appear to be present in his normative discourse. I begin by outlining how Smith's theory of the impartial spectator fits into Sen's theory, and then I offer a discussion of "distant voices" that can challenge or raise problems for his own position, in the sense he is trying to do in his search for objectivity. Finally I explore a famous example from Smith that Sen considers, infanticide, which illustrates the way in which the impartial spectator can be utilised, but also the problems it can raise for trying to create a platform on which to engage in dialogue for a better world.

### I

## The Impartial Spectator

One of Sen's central concerns in *The Idea of Justice* is the way that people can participate in "public dialogue" and "unrestricted public deliberation," because they are "quite central to democratic politics in general and to the pursuit of social justice in particular."<sup>2</sup> For Sen, reason is crucial in this process because it allows people to make ethical judgements, but this does not rule out the role of emotions within such deliberations.<sup>3</sup> Indeed, he sees reason and emotion playing "complimentary roles in human reflection." When we engage in such reasoning, Sen contends that we have to be as objective as we possibly can to help us think about issues of justice and injustice,<sup>4</sup> which implies the need for impartiality in our deliberations.<sup>5</sup> He also suggests that "by and large" everyone has the capacity for reasonableness by being open minded about receiving

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1 Amartya Sen, *The Idea of Justice* (London: Penguin, 2010).

2 Ibid., 43-44.

3 Ibid., 39.

4 Ibid., 39-40.

5 Ibid., 42.

information and reflecting on different arguments from different people, while also engaging in “interactive deliberations and debates on how the underlying issues should be seen.”<sup>6</sup>

A crucial feature of this process for Sen is Adam Smith’s notion of the “impartial spectator,” because it acts as a resource for allowing us to think about the role of objectivity in the assessment of justice.<sup>7</sup> For Sen, Smith’s notion of the impartial spectator is “a thought-experiment that asked what would a particular practice or procedure look like to a disinterested person – from far or near.”<sup>8</sup> Sen sees this as a “dialectical device to question and dispute commonly held beliefs,”<sup>9</sup> and is meant to “open up questioning, rather than close down a debate with a formulaic answer allegedly derived from the impartial spectator seen as a definitive arbitrator.”<sup>10</sup> As such, Sen continues, it raises many relevant questions, is “part of the discipline of impartial reasoning,” and it is in that way the idea is used in his book.

Sen states that we must follow Smith’s edict that we “‘have to examine our own conduct as we imagine any other fair and impartial spectator would examine it’.”<sup>11</sup> In doing so, we follow Smith’s main motivation to “broaden our understanding and to widen the reach of our ethical inquiry.”<sup>12</sup> One way in which we do so, Sen contends, is explained by Smith as follows:

In solitude, we are apt to feel too strongly whatever relates to ourselves . . . The conversation of a friend brings us to a better temper. The man within the breast, the abstract and ideal spectator of our sentiments and conduct, requires often to be awakened and put in mind of his duty, by the presence of the real spectator: and it is always from that spectator, from whom we can expect the least sympathy and indulgence, that we are likely to learn the most complete lesson of self-command.<sup>13</sup>

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6 Ibid., 43.

7 Ibid., 44.

8 Ibid., 404.

9 Ibid., 125, fn\*.

10 Ibid., 404, fn\*.

11 Ibid., 124. Quoting Adam Smith, *The Theory of Moral Sentiments* (London: Penguin, 2009), III. I. 2.

12 Sen, *The Idea of Justice*, 125.

13 Ibid. Quoting Smith, *The Theory of Moral Sentiments*, III. 3. 38.

Interestingly, Sen also notes that “even though Smith often refers to the impartial spectator as the ‘man within the breast’,” it is the broadening out of the assessment and judgement that is the crucial aspect of his “intellectual strategy.” This is why Sen thinks that Smith’s impartial spectator can be considered as a “pioneering idea in the enterprise of interpreting impartiality and formulating the demands of fairness which so engaged the world of the European Enlightenment.”<sup>14</sup> Sen cites Condorcet and Kant as being influenced by Smith in this respect.

For Sen, Smith is therefore invoking the “reflective device” of the impartial spectator to make us think beyond our narrow concerns and see how they would look from a distance. He then offers a long quotation to justify what he sees as Smith’s “procedure of open impartiality” as follows:

We can never survey our own sentiments and motives, we can never form any judgement concerning them; unless we remove ourselves, as it were, from our own natural station, and endeavour to view them as at a certain distance from us. But we can do this in no other way than by endeavouring to view them with the eyes of other people, or as other people are likely to view them.<sup>15</sup>

Sen deduces from this that “Smithian reasoning not only admits but requires consideration of the views of others who are far as well as near.”<sup>16</sup>

Sen explains this further by stressing how resolving matters of injustice through public reasoning means that we must include contributions from everyone whose assessments are relevant to the issue. This means people who might have an interest in the matter as well as those who can make enlightened contributions on the judgements being proffered, which can be missed if different perspectives are not allowed to be included. Smith’s value, according to Sen, is the way he allows the discussion to be broadened and overcome any parochialism that might pertain in a particular culture.<sup>17</sup> The invocation of the impartial spectator means that we need to ask what someone from a distance would say about a particular issue and so allow us to critically examine the influence of any vested interests along with the impact of tradition or custom that could undermine

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14 Sen, *The Idea of Justice*, 124.

15 Ibid., 125. Quoting Smith, *The Theory of Moral Sentiments*, III. I. 2.

16 Sen, *The Idea of Justice*, 126.

17 Ibid., 44-45.

objectivity.<sup>18</sup> Such objectivity is therefore linked either directly or indirectly to the ability to survive scrutinizing challenges from different perspectives, which Sen sees as essential in relation to our political and ethical convictions. However, he then adds the caveat that any principles that survive such an examination should not be treated as a “unique set.”<sup>19</sup> This is because there could be competing positions that persist and do not fit into one form of resolution that can then be accommodated institutionally and implemented by a sovereign state, as is the case in John Rawls’ theory that Sen describes as “transcendental institutionalism.” Despite such a difference with Rawls’ approach, Sen maintains that there is a commonality here based on the “need for reasoned encounter on an impartial basis.”<sup>20</sup> Sen realises that reasons of justice can differ due to the Smithian notion of “self-love” and also due to prudence, but concludes that “reasons of justice still constitute a large expanse.”<sup>21</sup>

On this basis, Sen contrasts the previously mentioned open impartiality, which he derives from Smith, with the closed impartiality he associates with Rawls’ approach because it implies that only the members of a society or nation are involved in making impartial judgements.<sup>22</sup> For Rawls this is based on an original position from which a social contract emerges that is shared among the citizens of a particular political community. Open impartiality involves making impartial assessments and judgements from outside the primary group to overcome any parochialism that may be present, and Sen cites Smith for support again.<sup>23</sup> Such impartial viewpoints can emanate from afar and within a particular culture, society or nation, but, the main point is that there is a need for both. However, he will contradict himself on this matter as we shall see later.

Sen’s emphasis on open impartiality and its importance for moving us beyond narrow concerns that permeate a position of closed impartiality, inevitably makes him reject those approaches that confine deliberations to the members of a sovereign state, such as Rawls and contractarian theory in general.<sup>24</sup>

Sen contends that there are major differences but also significant similarities between the closed impartiality of the social contract and the open impartiality of the impartial

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18 *Ibid.*, 45.

19 *Ibid.*, 45-46.

20 *Ibid.*, 46.

21 *Ibid.*

22 *Ibid.*, 122.

23 *Ibid.*, 123.

24 *Ibid.*, 128-29.

spectator.<sup>25</sup> This leads him to investigate Rawls' discussion of the impartial spectator in his *A Theory of Justice*<sup>26</sup> to try to answer the question of whether the impartial spectator can be a viable approach to moral or political assessment without being either directly or indirectly parasitic on some version of closed impartiality such as contractarianism. Sen argues that Rawls perceives this as a possibility, but is mistaken in doing so because Smith explicitly rejected utilitarian arguments and required his impartial spectator to go beyond the closed impartiality present within a social contract.<sup>27</sup>

Sen notes that there are three particular problems to the restrictions of Rawls and social contract theory. The first is that it narrows our obligations to those who are outside our "neighbourhood" and so weakens any theory of justice.<sup>28</sup> Sen refers to this as "*exclusionary neglect*," where closed impartiality excludes those who are not part of the focal group but whose lives will be affected by the decisions of that group.<sup>29</sup> In this case, Sen considers the contrast between international and global justice and shows how Smith's impartial spectator can enlighten this issue.<sup>30</sup> Sen notes how Rawls attempts to extend the original position by making it both intranational, which covers people within a nation, and international, which relates to people of different nations. In this way, even though both aspects are instances of closed impartiality, together they encompass the entire world in the search for justice. However, Sen finds this "deeply unrealistic" and not on the agenda "now or in the foreseeable future."<sup>31</sup> Moreover, dividing the world into nations or peoples ignores the further divisions that arise due to interpersonal relations that occur in relation to cross-border effects of human action. Sen cites the operations of transnational corporations as an example of this because they operate without borders and so do not fit into the one nation or people model.<sup>32</sup> Similarly, Sen continues, our relations to one another in terms of concern and duty can also transcend the restrictions of operating through the auspices of the nation state, as in the case, say, of a feminist who identifies with the oppression of women in another part of the world. What is driving the feminist is her relation to other

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25 *Ibid.*, 136.

26 John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971), 183-92.

27 Sen, *The Idea of Justice*, 136-37. Citing Smith, *The Theory of Moral Sentiments*, VII. ii. 2. 14 and Rawls, *A Theory of Justice*, 22-23, fn. 9.

28 Sen, *The Idea of Justice*, 129.

29 *Ibid.*, 138.

30 *Ibid.*, 140.

31 *Ibid.*, 141.

32 *Ibid.*, 142.

women rather than her citizenship and her viewpoint could be introduced as part of being an exercise in “open impartiality.”

Sen contends that other identities based on class, language and so on can serve as a basis for the operation of “open impartiality” that again go beyond the remit of nation states. Even global protests need not be confined to international relations or by Rawls’ “law of peoples” and doing so, Sen suggests, results in a “tyranny of ideas.”<sup>33</sup> If we also consider the issue of human rights, these cannot be understood on the basis of the citizenship of one country, but instead are based on claims open to every human being throughout the world.<sup>34</sup> Consequently, Smith’s impartial spectator allows us to overcome these problems of “exclusionary neglect.”<sup>35</sup>

The second is what Sen calls “*inclusionary incoherence*,” where inconsistencies can emerge in closing the membership of a group, where the decisions taken by any focal group can have an impact on the composition or size of that group.<sup>36</sup> In this case, “the members of the focal group have a status in the contractarian exercise that non-members do not enjoy.”<sup>37</sup> For Sen, public policies can alter the size and composition of the population of a specific group, which can also be subject to change through “marriages, mating, cohabitation, and other parameters of reproduction.” Moreover, the fact that the focal group is involved in choosing the basic structure of society means that the group will be influenced by that choice itself, and trying to limit the group for closed impartiality can lead to incoherence. Sen argues that Smith’s impartial spectator means that such incoherence is avoided because the latter comes from without the group rather than within it. “Indeed, Smith’s ‘abstract and ideal spectator’ is a ‘spectator’ and not a ‘participant’ in any exercise like a group-based contract.”<sup>38</sup> Moreover, there is no contracting group and it is not necessary that the “evaluators must be congruent with the affected group.” Sen admits that there is still a problem of how the impartial spectator could make decisions on a fluctuating population size, which Sen sees as an “ethical issue of profound complexity,” but maintains that the **problem** of incoherence and incongruity does not apply in the case of the impartial spectator.

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33 Ibid., 143.

34 Ibid., 143-44.

35 Ibid., 144.

36 Ibid., 139.

37 Ibid., 145.

38 Ibid., 149.

The third, “*procedural parochialism*,” relates to Smith’s concern over the lack of a consideration of views from outside, “distant voices,”<sup>39</sup> where the biases and prejudices of the focal group are not addressed. Sen argues that the point here is not that these distant voices have to be taken into account just because they are there. Rather, it is because the path to objectivity “demands serious scrutiny” and an appreciation of “different viewpoints from elsewhere, reflecting the influence of other empirical experiences.”<sup>40</sup> The importance of these different views for Sen is that they pose a question even if that question may turn out to be wrong or inadequate in some way once it has been reflected upon. The danger of parochialism is that such reflection may seem unnecessary because the beliefs people have become common sense. Indeed, local preferences in making social judgements are seen as perfectly legitimate and in some cases to be of paramount importance, he cites some versions of communitarianism for doing this. Additionally, Sen notes how even the procedure of Rawls’ original position has limited exposure to outside views, something that Rawls himself sees as a positive aspect of his theory because it is “free from distracting details’.”<sup>41</sup> However, for Sen, Rawls is begging the question of whether these “distracting details” could be relevant, rather than rejected in order to preserve the “purity of the exercise of fairness.”<sup>42</sup>

Sen sees the open impartiality arising from the impartial spectator as offering a “liberating role” that allows “unprejudiced and unbiased perspectives” to inform a particular issue and a recognition that there may be no overall agreed decision on what is the right course of action to take. Sen therefore suggests that we do not need to demarcate clear orderings for what is just or unjust so that a

. . . common resolve to fight for the abolition of famines, or genocide, or terrorism, or slavery, or untouchability, or illiteracy, or epidemics, etc., does not require that there be a similarly extensive agreement on the appropriate formulae for inheritance rights, or income tax schedules, or levels of minimum wages, or copyright laws.<sup>43</sup>

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39 Ibid., 407.

40 Ibid.

41 Sen, *The Idea of Justice*, 150. Citing John Rawls, *Political Liberalism* (New York: Columbia University Press, 2005), 12.

42 Sen, *The Idea of Justice*, 151.

43 Ibid., 145.

Sen contends that this is due to recognising human diversity across the world and open impartiality engendered by the impartial spectator is crucial in this process. So Sen's emphasis on openness and recognition of human diversity means that a common policy of achieving justice needs to accommodate the culturally specific or particular situation of a particular country. He declares, slightly defensively, that "there is nothing defeatist in this recognition."<sup>44</sup>

Finally, Sen considers a problem for the claim of open impartiality in general because the objection could be made that the human mind might be too limited to allow ourselves to go beyond our local concerns. Sen again cites versions of communitarian separatism as an example of this, but concludes that "there is no particular reason to presume that interactive communication and public engagement can be sought only within such boundaries (or within the confines of those who can be seen as 'one people')."<sup>45</sup> Sen argues that for Adam Smith, the "impartial spectator could draw on the understanding of people who are far as well as those who are near."<sup>46</sup> So the idea that we cannot communicate or lack the cognitive ability to do so beyond our local communities and groupings is "no more absurd today than it was in Smith's eighteenth-century world."<sup>47</sup> In this way, and despite the fact that we do not have global democracy or even a global state, Sen contends that Smith's "impartial spectator has immediate implications for the role of global public discussion in the contemporary world."<sup>48</sup>

Sen then argues that global dialogue, which is crucial for global justice, comes from myriad institutions ranging from the United Nations or the World Trade Organisation in particular, but more generally through the media, political agitation, citizens' organisations and **NGO's (Non-Governmental Organization's)**, trade unions, cooperative operations, human rights campaigns and feminist groups. Such a global understanding of our predicament is even further enhanced by the global response to terrorism and to the global economic crisis that is blighting the lives of millions of people throughout the world.<sup>49</sup> Consequently, Sen concludes that such a response necessitates a re-affirmation of Smith's impartial spectator to make us engage with the issue of impartiality in relation to moral

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44 Ibid.

45 Ibid., 151.

46 Ibid.

47 Ibid.

48 Ibid.

49 Ibid., 151-52

and political philosophy in the globalised world we live in.<sup>50</sup> Indeed, this all ties in with the very reasonable way Sen approaches issues of justice and would seem to be a benefit of his theory. However, some problems do arise with this approach as we shall see in the next section.

## II

### Distant Voices

For Sen as we have seen, in Smith's impartial spectator approach the "distant voices" are given prominence for their relevance on a particular issue. So following Sen's logic we need to apply the objectivity and enlightenment of some "distant voices" to his own theory.

To begin with, we first need to focus on Sen's claim to be using Smith's impartial spectator as a "dialectical device." One problem that arises for Sen here is that he seems to misinterpret what Smith says about the impartial spectator exhibiting two forms: the "ideal spectator" and the "real spectator."<sup>51</sup> Sen loses his dialectical approach by overemphasising the real spectator to the detriment of the ideal spectator. This is evinced in his comment earlier that "even though" Smith refers to the impartial spectator as the "man within the breast," Sen sees the broadening out aspect as the most important part of the moral deliberative process. So the dialectical interplay he quite rightly identified is lost and the nuanced nature of the two forms of the impartial spectator is missed. To understand this correctly one has to be aware of Smith's starting point for moral deliberations.

Smith argues that "first perceptions, as well as all other experiments upon which any general rules are founded, cannot be the object of reason, but of immediate sense and feeling."<sup>52</sup> As such, Smith is seen as contributing to the empiricist, anti-rationalist approach to ethics of his precursors, Francis Hutcheson and David Hume, who maintained that the passions are at the basis of morality and moral judgements.<sup>53</sup> So moral truths cannot be deduced by logic from obvious assumptions or known innately.<sup>54</sup> The impartial spectator then fits into this by being "especially concerned with moral judgements about one's own actions."<sup>55</sup> Whereas Hutcheson and Hume limited their investigations to account for the

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50 Ibid., 152.

51 Smith, *The Theory of Moral Sentiments*, III. 3. 38.

52 Ibid., VII. iii. 2. 7. Cf. Jeffrey T. Young, "Natural Morality and the Ideal Impartial Spectator in Adam Smith," *International Journal of Social Economics* 19, no. 10/11/12 (1992): 73.

53 Young, "Natural Morality and the Ideal Impartial Spectator in Adam Smith," 73.

54 Ibid.

55 D. D. Raphael, *The Impartial Spectator: Adam Smith's Moral Philosophy* (Oxford: Clarendon Press, 2007), 5.

decisions made about other people's actions, Smith internalised the theory and developed it to make it a "theory of conscience."<sup>56</sup> So the starting point for any moral deliberations is within the individual who is confronted by two forms of the impartial spectator that stops us from, as Smith says, feeling "too strongly whatever relates to ourselves."<sup>57</sup> Relating to ourselves in moral deliberations is therefore our starting point, according to Smith, but to make such deliberations we need to confront ourselves with the "ideal spectator" on one side, and the "real spectator" on the other side. As Jeffrey Young indicates, both of these spectators are impartial but the evaluations that accrue from the real spectator offer the "static criteria by which a society evaluates itself."<sup>58</sup> This is a "higher standard of judgement; the individual's conscience."<sup>59</sup> However, this "higher standard" can only be reached through a dialectical interplay of moral deliberation.

Despite this anomaly, Sen attempts to re-assert his dialectical approach in a discussion of Simon Blackburn's analysis of Smith's impartial spectator. Sen notes how Blackburn has interpreted Smith's use of the impartial spectator to develop a "common point of view."<sup>60</sup> Sen responds to this claim by certainly agreeing that such an interpretation is possible but contends, as we saw earlier, that "Smith also uses that thought-experiment as a dialectical device to question and dispute commonly agreed beliefs."<sup>61</sup> In this way, Sen suggests that this second use is important even if no "common point of view" emerges. However, there are two problems here. The first is that Sen does not seem to be following his own edict of understanding closed and open impartiality in a dialectical interplay because he slips into overemphasising open against closed. Yet, it is not a matter of open versus closed impartiality but a consideration of both, which he initially correctly realised. On the one hand is the "man within the breast" the "ideal spectator" that is concerned solely with what relates to ourselves, and on the other side is the "real spectator" that makes us think beyond ourselves. One compliments the other in, what is, as Sen pointed out above, a dialectical interplay, rather than a one-sided reductionism to open impartiality. Smith is recognising that when we are faced with ethical dilemmas our starting point is normally

56 Young, "Natural Morality and the Ideal Impartial Spectator in Adam Smith," 73, drawing on D. D. Raphael, "The Impartial Spectator," in *Essays on Adam Smith*, eds. Andrew S. Skinner and Thomas Wilson (Oxford: Clarendon Press, 1975).

57 Smith, *The Theory of Moral Sentiments*, III. 3. 38.

58 Young, "Natural Morality and the Ideal Impartial Spectator in Adam Smith," 73.

59 Ibid.

60 Sen, *The Idea of Justice*, 125, fn\*, citing Simon Blackburn, *Ruling Passions: A Theory of Practical Reasoning* (Oxford: Clarendon Press, 2000).

61 Sen, *The Idea of Justice*, 125, fn\*.

related to ourselves, what Sen calls closed impartiality, but a proper moral deliberation must also be confronted with the outside viewpoint, the open impartiality that Sen is so keen on. Indeed, even the term “closed impartiality” might be seen as unhelpful, because it is not always completely closed anyway. It lacks the recognition that even the most “closed” mind can be confronted with doubts and subconscious challenges that would disturb the certainty of their own moral actions.

A second problem is that Sen has misinterpreted Blackburn who explains the notion of the “common point of view” through his own interpretation of Smith via Hume.<sup>62</sup> For Blackburn, the “common point of view” refers to a “sensitivity,” a “restless . . . duty of self-scrutiny that is present in Smith’s ‘impartial spectator’ within the breast.”<sup>63</sup> It is the second part of what Blackburn refers to as a “four-part” process in moral deliberation.<sup>64</sup> The first is to love a particular quality in another person, the second, the “common point of view,” is taken up as it turns this love into “*esteem*.” The third turns us inward to make us aware whether we exhibit this trait or not. The fourth is when this awareness then leads to “self-satisfaction and pride, or unease and shame,” which relates to our original assessment and “imagining this assessment made of us by others.”<sup>65</sup> Blackburn refers to this as “a kind of internal vibration in sympathy with the imagined sentiments of others.”<sup>66</sup> What Blackburn finds original in this formulation is not the self-scrutiny aspect but the “stress on the social aspect, so that self-scrutiny is a matter of internalising the gaze of others.”<sup>67</sup> The “common point of view” is making a judgement about whether a particular action or trait should be praised or not. For Blackburn, then, the “capacity to take up the impartial point of view remains possible, even when on occasion we are unable to rise to it.”<sup>68</sup> It is not therefore clear that Blackburn is, as Sen contends, discounting the dialectical interplay to dispute commonly held beliefs. The “common point of view” is not commonly held beliefs; it is the way in which we determine the good or bad of an action or in Smith’s own words, reported by Blackburn:

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62 Blackburn, *Ruling Passions: A Theory of Practical Reasoning*, 200-01. Citing Smith, *The Theory of Moral Sentiments*, III. 2. 33.

63 Blackburn, *Ruling Passions: A Theory of Practical Reasoning*, 200-01.

64 *Ibid.*, 201.

65 *Ibid.*

66 *Ibid.*

67 *Ibid.*, 202.

68 *Ibid.*

The jurisdiction of the man within is founded altogether in the desire of praiseworthiness, and in the aversion to blame-worthiness; in the desire of possessing those qualities, and performing those actions, which we love and admire in other people; and in the dread of possessing those qualities, and performing those actions, which we hate and despise in other people.<sup>69</sup>

So Sen seems to have misread Blackburn quite badly here because the process does not imply a definitive outcome even though for Blackburn, and it seems for Smith, that definitive outcome would be desirable, for Sen that is not as clear. The way Blackburn reads Smith is as a defender and a member of the “party of humanity,” and the appeal to the “man within the breast” who is “representing the absent people without” is part of that common humanity.<sup>70</sup> So this interrogative process of self-scrutiny does not imply common opinion in the sense that Sen suggests but an appeal to common humanity. Unfortunately for Sen, he slips into a form of cultural relativism that undermines this appeal even though he feels at liberty to invoke it himself at times when he so desires to ground his idea of justice, as in the case of his preference for universal human rights, for example. Moreover, this appeal to our common humanity is part of how Smith responds to trying to get agreement with someone over a particular issue which in the end amounts to, as Blackburn states, “throw[ing] our shoulders behind an ideal of civility, even if we understand that it has no transcendental backing.”<sup>71</sup>

We can now turn to Sen’s contention earlier that we do not need to demarcate orderings of what is just or unjust. The examples he uses above, as “common:” opposition to slavery, genocide, terrorism, etc., do not relate to the specific examples of the policies he then outlines, such as inheritance rights, income tax schedules, minimum wages, etc., which makes them look as though they might not be agreed upon and so support his claim that we do not need to demarcate what is just or unjust. Yet the common goal to abolish slavery, for example, does require some form of consensus on the best way that can be achieved if individual nations are to be bound by this goal. This can be encapsulated in the human rights argument that Sen made earlier. Those nations allowing such practices to exist can then be held to account for doing so. Slavery can be clearly marked therefore as an unjust practice and a common policy enshrined in human rights endorsed to stop such a practice.

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69 Smith, *The Theory of Moral Sentiments*, III. 2. 33, quoted by Blackburn, *Ruling Passions: A Theory of Practical Reasoning*, 200.

70 Blackburn, *Ruling Passions: A Theory of Practical Reasoning*, 230.

71 *Ibid.*, 263.

It is as though Sen is privileging freedom over all other factors, and indeed this is a criticism that Martha Nussbaum has levelled at him in relation to the Capabilities Approach which also has import here.<sup>72</sup>

Nussbaum first notes that although Sen focuses on the way capabilities are used comparatively, as he is doing here with the issue of what is just or unjust, he also, when examining real societies, identifies certain capabilities as being “more important than others,” such as: “health, education, political participation, non-discrimination on the basis of race, religion, and gender.” So he is committing himself to a notion of basic justice. Yet Nussbaum also suggests that Sen’s emphasis on maximising freedom allows him to speak as if all capabilities were of value on that basis.<sup>73</sup> However, for Nussbaum this goes against the possibility of saying anything substantial about justice if we do not stipulate those capabilities that are needed to give “people the preconditions of a life worthy of human dignity”<sup>74</sup> and which she does with her list of ten central capabilities.<sup>75</sup> She thinks that if we are to achieve social justice these ten capabilities should be defended and act as a basis for articulating political principles that frame a “set of fundamental constitutional entitlements” that should be linked to “law and nation-building.”<sup>76</sup> For Sen, of course, as Nussbaum observes, the emphasis is on seeing freedom as an overall good and leaving nation states to decide the specific capabilities that should be constitutionally protected. In that way, the democratic choices of these states is therefore being respected. Nussbaum concurs with the latter and states that it is illegitimate to impose anything on democratic nations from without, but her policy is based not on imposition, but on “persuasion, and the issue of implementation is a distinct one.”<sup>77</sup> Nevertheless, she maintains that to simply offer the possibility of freedom as Sen does results in a number of problems.

First, Nussbaum suggests that there are doubts as to whether promoting freedom can offer coherence as a political project. She gives the examples of how the freedom for rich people to donate to political parties can undermine the equal value of the right to vote, or how the freedom of industry to pollute the environment can limit the freedom of those who wish to live free from such pollution. Nussbaum admits that these freedoms are not the

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72 Martha C. Nussbaum, *Creating Capabilities: The Human Development Approach* (Cambridge, MA: Belknap Press of Harvard University Press, 2011), 70-71. Thanks to Tony Burns for alerting me to this critique.

73 *Ibid.*, 70.

74 *Ibid.*, 73.

75 *Ibid.*, 33-34.

76 *Ibid.*, 71.

77 *Ibid.*

ones that Sen considers but concludes that “he says nothing to limit the account of freedom or to rule out such conflicts.”<sup>78</sup> In addition, Sen ignores the fact that intrinsic to very idea of freedom is constraint, because the freedom to do a particular action will always be dependent on not being interfered with by other people when enacting it.<sup>79</sup>

Second, Nussbaum argues that even if such a project was coherent it is not something that a person endorsing a capabilities approach should endorse.<sup>80</sup> She emphasises that the capabilities approach implies that to protect the liberties and rights of the poor, for example, means saying “forthrightly that some freedoms are central for political purposes, and some are distinctly not.”<sup>81</sup> Sen cannot do this because he is pinned to his emphasis on open impartiality and the diversity of implementation of any policy of justice within each nation state. For our purpose, it seems as though he is also falling back into the state-centred approach that he is so critical about in relation to Rawls. His open impartiality argument based on the impartial spectator as someone enlightening the issue of justice from afar and outside, becomes lost once we see the implementation of such an aim within the nation state.

Finally, the crucial issue of whether we have the capacity to do what the impartial spectator demands of us must also be addressed. As we saw earlier, Sen thinks everyone can meet this demand because the human mind can allow us to go beyond our local concerns but there can be doubts cast on this as D. D. Raphael now explains.

Raphael sees Smith’s theory of the impartial spectator as being a “sociological and psychological explanation of some moral capacities.”<sup>82</sup> Consequently, the “concept of the impartial spectator is especially concerned with moral judgements about one’s own actions.”<sup>83</sup> Smith is therefore “presenting a hypothesis of the actual causal processes whereby judgements of conscience are formed.”<sup>84</sup> For Raphael, this means that Smith sees “conscience to be a second self built up in the mind as a reflection of the attitudes of outside persons.”<sup>85</sup> So his theory was “meant to provide a satisfactory alternative to

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78 Ibid.

79 Ibid., 71-72.

80 Ibid., 72.

81 Ibid.

82 Raphael, *The Impartial Spectator: Adam Smith’s Moral Philosophy*, 47.

83 Ibid., 4.

84 Ibid., 48.

85 Ibid.

rationalist a priori accounts of conscience and morality generally.”<sup>86</sup> Although Smith was, along with Hutcheson and Hume, a “good empiricist,” where he differed with them was that they could not “account for the peculiarities of conscience” and his impartial spectator was one way he could do that.

However, Raphael is critical of the complexity of Smith’s hypothesis because he thinks his “concept of the impartial spectator is too complicated to be acceptable when one works it out fully in terms of his general theory of approval.”<sup>87</sup> Raphael explains this complexity in the following way. He states that if Smith is correct then an ordinary spectator will approve of an agent’s actions if he imagines himself to be in the same predicament and act in the same manner.<sup>88</sup> The agent, on the other hand, once conscience has been consulted, has to imagine that they are an impartial and uninvolved spectator, while also being aware of the facts of the particular issue.<sup>89</sup> So the agent imagines him or herself to be the impartial spectator and the impartial spectator has to imagine him or herself as the agent. Once this is done the agent then has to ask him or herself whether the feelings he or she actually feels now would correspond to the feeling he or she imagines they would correspond to. Raphael concludes that while the “process is not impossible,” “it seems too complicated to be a common experience.”<sup>90</sup> I now want to examine one of the main examples that Sen uses from Smith to try to show the efficacy of the impartial spectator for his idea of justice and that is the practice of infanticide.

### III

## Infanticide

Sen notes how Smith was particularly concerned to apply his theory to jurisprudence and moral and political reasoning and cites the issue of infanticide as a case in point at the end of *The Idea of Justice*.<sup>91</sup> He offers a long quotation from Smith on the issue as follows:

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86 *Ibid.*, 49.

87 *Ibid.*, 51.

88 *Ibid.*, 51-52.

89 *Ibid.*, 52.

90 *Ibid.*

91 Sen, *The Idea of Justice*, 404.

The murder of new-born infants was a practice allowed of in almost all the states of Greece, even among the polite and civilized Athenians; and whenever the circumstances of the parent rendered it inconvenient to bring up the child, to abandon it to hunger, or to wild beasts, was regarded without blame or censure . . . Uninterrupted custom had by this time so thoroughly authorised the practice, that not only the loose maxims of the world tolerated this barbarous prerogative, but even the doctrine of philosophers, which ought to have been more just and accurate, was led away by the established custom, and upon this as upon many other occasions, instead of censuring, supported the horrible abuse, by far-fetched considerations of public utility. Aristotle talks of it as what the magistrate ought upon on many occasions to encourage. The humane Plato is of the same opinion, and, with all that love of mankind which seems to animate all his writings, nowhere marks this practice with disapprobation.<sup>92</sup>

For Sen, Smith is drawing attention to the fact that ancient Athenians, even Plato and Aristotle, condoned infanticide while being unaware that in other societies such a practice was not in any way a necessity. For Sen, Smith's example of infanticide is still, unfortunately, relevant today albeit only in a few societies, although many of his other examples apply to a wide number of contemporary societies.<sup>93</sup> This also applies, Sen continues, to Smith's demand that "'the eyes of the rest of mankind' must be invoked to understand whether 'a punishment appears equitable'."<sup>94</sup> Sen supposes that even the hanging of "'miscreants'" seemed to be perfectly acceptable to the "enforcers of order and decency in the American South, not very long ago."<sup>95</sup> Sen then gives a number of examples from today where he thinks Smith's "scrutiny from a 'distance'" can be useful to assess and judge particular acts. These are: "the stoning of adulterous women in the Taliban's Afghanistan, selective abortion of female foetuses in China, Korea and parts of India, and widespread use of capital punishment in China, or for that matter in the United States (with or without the celebratory public jubilations that are not entirely unknown in some parts of the country)."<sup>96</sup> Sen therefore concludes that "closed impartiality lacks something of the quality that makes impartiality – and fairness – so central to the idea of justice."<sup>97</sup>

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92 Ibid. Citing Smith, *The Theory of Moral Sentiments*, V. 2. 15.

93 Sen, *The Idea of Justice*, 404-05.

94 Ibid., 405. Citing Smith, *The Theory of Moral Sentiments*, V. 2. 15.

95 Sen, *The Idea of Justice*, 405.

96 Ibid.

97 Ibid.

Sen argues that the supposed cogency of parochial values is often due to a lack of knowledge of what has been proved possible in the lives of other people.<sup>98</sup> He points out that the defence of infanticide in ancient Greece that Smith discussed was influenced by a lack of knowledge of other societies where this is not performed and does not lead to chaos or crisis. So while parochial knowledge is important, global knowledge can inform local practices and debates. However, Sen is keen to add that listening to “distant voices,” which is the demand of Smith’s impartial spectator, does not mean they should always be respected or accepted. They can be rejected partly or totally but they may contain aspects of reasoning to make us question what could be deeply held beliefs. Even where arguments can initially appear “outlandish,” they may still have an important part to play in our moral deliberations. Sen considers how those in China or the USA may not want to consider why other countries do not practice capital punishment as they do, but “if reasons are important” then he thinks there should be a “strong case” for examining arguments from elsewhere that reject such a practice.

As we have seen, this concern with distant voices can be a useful source for objective reasoning, according to Sen. He adds that these people are not acting as arbitrators but as people who can offer a “less partial understanding of the ethics and justice of a problem.”<sup>99</sup> For Sen, then, the Smithian “impartial spectator” is a “device for critical scrutiny and public discussion” and does “not, therefore, seek unanimity or total agreement in the way that the institutional straitjacket of Rawlsian theory of justice demands.”<sup>100</sup> Consequently, for Sen, his own emphasis on the “demands for reasoned practice” can “live with a good deal of incompleteness or unresolved conflicts.”<sup>101</sup> So the “agreement to emerge from a ‘public framework of thought’ can be of a partial but useful kind.”<sup>102</sup>

Sen’s openness here is in one sense to be commended but in another sense raises further doubts about the efficacy of his idea of justice. It certainly fits a number of examples quite well where the morality of an act cannot be decided either way. The infanticide issue, though, is an interesting case. The way Sen interprets Smith on this is that his appeal to the impartial spectator allows him to offer the “reasoned practice” that such an act is morally wrong because it did not take place in cultures outside ancient Greek

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98 *Ibid.*, 407.

99 *Ibid.*, 131.

100 *Ibid.*, 135.

101 *Ibid.*

102 *Ibid.*

society. As Sen stipulates, it was not in any way a necessity and he states it is unfortunate that it is still present today. However, when we go back to Smith's example Sen misses out the discussion Smith has about the origins of the practice.

Smith surmises that the practice of infanticide probably originated in "times of the most savage barbarity" and even in his day where the "practice prevails among all savage nations; and in that rudest and lowest state of society it is undoubtedly more pardonable than in any other."<sup>103</sup> Smith then concludes that infanticide in such societies "ought not to surprise us too greatly" because of the existence of the "greatest extremity of hunger" where people often die of "pure want."<sup>104</sup> He condemns the practice in Greek society because "views of remote interest or conveniency . . . could by no means excuse it."<sup>105</sup> So for Smith, the fact that infanticide is a "custom" matters not, because custom "should never pervert our sentiments with regard to the general style and character of conduct and behaviour."<sup>106</sup> Infanticide, then for Smith, is a universal wrong, even if at times its practice can be understood.

Sen seems to think along similar lines judging by his comments above but this again goes against his own edict that we cannot clearly demarcate just and unjust acts. Sen and his exemplar Smith do so in this instance, but in Sen's case his openness to allow competing perspectives to exist ultimately undermines such a claim. It comes back to the contradictions between Sen's moments of essentialism that become undermined by his cultural relativism. Indeed, in this case the "distant voices" if heard, one presumes, would have told the ancient Greeks that in their "civilised" society the practice of infanticide was not in any way a necessity, but what, we might ask, of the "civilised" society that Smith was living in? Infanticide was practiced by many poor women out of the necessity that he sees as pardonable but which was punished in law with hanging.<sup>107</sup> Their circumstances would in no way allow them to be able to listen to the impartial spectator that they do things differently elsewhere and there is no need for such a practice. Sen seems to think modernity will allow such reflection but necessity is still with us in the globalised world.

We are therefore left at the end of *The Idea of Justice* with a certain elusiveness that Sen thinks is a strength but at the same time wants to ground in the reasoning of the

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103 Smith, *The Theory of Moral Sentiments*, V. 2. 15.

104 Ibid.

105 Ibid.

106 Ibid.

107 Peter Linebaugh, *The London Hanged: Crime and Civil Society in the Eighteenth Century* (London: Allen Lane, 1991), 148-49.

impartial spectator. It seems though that Smith would be less reluctant to do so than Sen. Smith is looking for moral absolutes through his impartial spectator and the idea that he does not want universal agreement or unanimity on moral issues seems unconvincing, as the case of infanticide suggests.

Moreover, the test of the resilience of Sen's idea of justice meets severe challenges when faced with certain practices that it would be difficult for an impartial spectator to penetrate, but should not be rejected as barbaric out of hand. The infanticide example admits to contextual moral ambiguity despite Smith's universal edict that it is wrong. However, one of the examples that Sen offers above is the stoning of adulterous women by the Taliban in Afghanistan. Closed impartiality in this case will, as Sen realises, lack the quality that the impartiality of the spectator can bring to this practice, because it is unlikely the Taliban are going to change their view that such a practice is a universal wrong. However, that does not stop those of us outside, or even those who take the risk from inside that closed circle, saying so on the basis of our common humanity, as Smith's impartial spectator would no doubt tell us to do. Whether Sen is willing to take that step because of his commitment to openness is unclear, but such a dialogue may be limited when it is confronted with realities of those who would rather not talk. Admittedly, this is one of the most difficult conversations for any theory of justice to have and it may seem uncharitable to chide Sen for not making it, but maybe Smith's commitment to common humanity and an emphasis on conscience over custom could be a profitable path as a paradigm for goodness in a world of incompleteness.

## Conclusion

The importance of Sen's contribution to an idea of justice cannot be disputed. The way in which he tries to open up ourselves to be objective in our moral deliberations through Smith's notion of the impartial spectator is certainly to be commended. However, what has hopefully been shown here is that doubts remain about his interpretation of Smith's device, the ambiguities it brings into Sen's approach in relation to moral and cultural relativism, and the problems that creates when trying to forge a better world. We need to hear the "distance voices" when we are confronted with a moral dilemma but not to the detriment of a dialectical interplay between the different forms of the spectator. Moreover, we also need the courage, while being perceptive to differences in custom, to give our best account about what we think is morally right or wrong. In that way, openness to dialogue does not turn into an evasion of what we think is morally correct, and instead can become a force for our common humanity.

## BIOGRAPHY

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