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正义的理念

The Idea of Justice

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阿马蒂亚·森 (Amartya Sen) 著





正义的理念

The Idea of Justice

阿马蒂蒙·森(Amarty Asea)著王帝。李航 籬 刘良权 校译

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中文版序

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很高兴看到《正义的理念》中文版的正式出版。出版方中国人民大学出版社是我的老朋友,之前已经出版了多部我的作品,感谢他们为将关于正义和非正义的讨论介绍给广大中国读者所作的努力。我从孩提时代起的所思所想——这也贯穿了我的一生——一直受到中国历史和源自中国的许多思想的影响。巧的是,我最早的朋友是一位名叫谭利(音)的中国人,他生于1934年,并于1936年与其父亲,著名学者谭云山先生一道抵达印度。谭云山教授是圣地尼克坦国际大学(印度诗人拉宾德拉纳特·泰戈尔所创建的进步教育中心)中国学院的首任院长。我7岁时与谭利结识,我们的友谊已保持了70多年。谨将《正义的理念》中文版献给谭利及其父亲谭云山先生。

中国对我的思想产生了影响,我也十分乐意将自己的作品展现给中国读者,希望他们感兴趣。对于我的作品在中国受到欢迎,我深感荣幸。中国所发生的事情不仅对中国重要,对于包括我的祖国印度在内的整个世界也是如此。2011年12月,一位印度记者问我:过去的一年中最让你高兴的事是什么?我说我不能完全确定,但或许是有一次一名北京大学的学生在我演讲之后的讨论中说,她深受我的作品的影响。她的评价得到了北京大学讲堂内周围同学的认同,那一刻,我深感欣慰。

正义的理念

中国的学生知道有许多研究正义理论的视角和方法,我所采用的只是其中之一。如果他们能在阅读我的作品的同时,也参阅其他视角和方法,我将甚为欣悦。

* * *

那么,这本书的内容是什么呢?当代政治哲学关于正义的各种主流理论之间在许多方面存在差别,但是它们都沿袭了一个共同的方法——"社会契约"方法。"社会契约"方法由托马斯·霍布斯于 17 世纪开创,从 18 世纪开始至今都是正义问题中最具影响的思想。尽管有各种不同的具体路径,但这种思考正义的方法始终围绕着一个虚构的"社会契约"——一个假想的关于社会组织的,由某个主权国家中的公民共同准许和接受的契约。这种方法的突出特征是将对某个社会的"公正制度"的描绘作为正义理论的主要使命。

契约方法在当代政治哲学中一直占据着主导地位,其代表人物当属当今最伟大的政治哲学家约翰·罗尔斯。在其1971年出版的经典著作《正义论》(A Theory of Justice)中,他运用社会契约方法,提出了一个将产生深远影响的关于正义问题的理论,也就是"作为公平的正义"。当代政治哲学中基本的正义理论——不仅来自罗尔斯,还来自罗伯特·诺齐克(Robert Nozick)、罗纳德·德沃尔金(Ronald Dworkin)、戴维·高蒂尔(David Gauthier)以及其他学者(尽管他们彼此之间在社会契约的内容上看法各异)——都将建立理想的社会制度所需的社会契约作为其核心。德沃尔金的理想社会制度与罗尔斯的不同,而罗尔斯的又与诺齐克的有所区别,但他们都将正义理论视为一套"理想的社会制度"。由于必须使这样一套制度的建立具有可操作性,因此这些理论都需要一个主权国家来与社会契约一道完成这项使命。对于主权国家的依赖使得研究正义问题的社会契约方法被局限在单个国家的范围内,而全球性的正义则无实现的可能。

然而在其他启蒙思想家的作品中,同时还存在另一种研究正义问题的方法。这些学者并没有致力于建立一个完美的正义理论框架,而是阐发了一系列重要的思想理念,并从中产生了一种不同于社会契约方法的基本要素,从而形成了对于正义要求的不同认识。这些思想家——包括18世纪的亚当·斯密、孔多塞(Condorcet)、玛丽·沃斯通克拉夫特(Mary Wollstonecraft),19世纪的卡尔·马克思、约翰·斯图尔特·穆勒(John Stuart Mill),以及其他人——采取了各种不同的路径,但都是在人们不同的生活方式之间进行比较,而这些生活方式又受到制度、人们的实际行为及其社会互动,以及其他因素的共同影响。我提出的正义理论可以看作沿着这条道路所作的探索。

具有高度解析性——相当数学化——的"社会选择理论"的起源可以追溯到 18 世纪的法国数学家,尤其是孔多塞,以及波达(Borda)等人所作的研究,在当代又为肯尼斯·阿罗等人重新表述并复兴。这一理论毫无疑问是属于上述第二条路线的。多年来我一直致力于发展社会选择中建设性的可能性(这些可能性相当广泛),并提出了关于社会集合的一系列成果。我在此领域中的一些作品已被译成中文,供广大中国读者阅读。尽管本书完全没有涉及数学,但我还是在其中非正式地运用了社会选择理论的内容。

* * *

我在本书中提出的正义理论,与社会契约的方法相比有三个主要的不同之处。第一,我主张应沿着孔多塞和斯密的道路,在理智思考的基础上,就明显的非正义达成共识,而不是寻找绝对的正义(即使是非常理智的人,对此的答案也可能存在很大的差别)。例如,孔多塞和亚当·斯密都曾呼吁废除奴隶制,在这个问题上,他们并不需要首先就什么是绝对公正达成共识。

第二,我们关注的焦点不必仅仅局限于制度(社会契约方法主要关

注寻找"公正制度")。相反,我们可以考察人们实际能够过上的生活,这当然有赖于所选择的制度,但也并不仅仅取决于制度。我们可以直接关注人们的生活和自由,包括他们选择生活的自由(本书中的"可行能力"一词即指这种自由)。

第三,与社会契约方法要求必须建立在一个主权国家的基础之上不同,本书中的方法可以包括来自世界各地的人们,因为我们关注的是理智的思考,以及在此基础上可能达成的一致,而不是一个由主权国家来执行的基于国家的社会契约。这就使得"全球性正义"成为可能,而这是解决诸如全球变暖、全球性经济危机等问题,或者预防和控制艾滋病等全球性流行疾病的关键。在跨境讨论的基础上可以产生许多全球性的一致认识,而这是以某一个国家作为决策的基础,将其他地区的看法排除在外的做法所不可能达成的。例如,由于之前全球性的相关的公开讨论很少,2009年的哥本哈根环境峰会以失败告终,这表明,在处理世界事务时,忽略全球性对话是行不通的。欧洲与诸如中国、印度、巴西等新兴工业化国家之间,在视角上存在差异,而这些差异又未能事先通过公开和互动的公共讨论得以消除。

以上诸点都与以下问题的答案有关,那就是:我们需要一个什么样的正义理论来认识正义的要求?我们又会理由充分地采取哪些行动?《正义的理念》一书致力于讨论推进世界上的正义和消除不可容忍的非正义。其应用范围着眼于全球,而不仅仅只是某个国家或某一地区。我非常希望中国读者能和我一样,看到这里所讨论的问题具有令人兴奋不已的意义和价值。

阿马蒂亚・森 2012 年 4 月

Foreword to the Chinese Translation

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I am delighted that a Chinese translation of The Idea of Justice is being published. The publishers, China Renmin University Press, are old friends, since they have published my writings before, and I am grateful to them for making my attempts at understanding the ideas of justice and injustice available to Chinese readers. My thinking from my childhood days—but stretching throughout my life—has been strongly influenced by Chinese history and by many ideas originating in China. As it happens, my oldest friend is a Chinese called Tan Lee, who was born in China in 1934 and arrived in India in 1936, with his father, Tan Yun-Shan, an outstanding Chinese scholar. Professor Tan Yun-Shan was the founding Director of "China Bhawan," the Institute of Chinese Studies in Santiniketan (the progressive educational centre established by the Poet Rabindranath Tagore) . I first met Tan Lee when I was seven years old. We still remain close after seven decades, and it is to Tan Lee and to the memory of his father, the great Tan Yun-Shan, that the Chinese version of The Idea of Justice is being dedicated.

Aside from the Chinese influence on my thinking, I have also been keen on presenting to the Chinese readers my own writings, hoping that they would find them to be of some interest, and I have always been very happy with the reception that my works have been fortunate to receive in China. What happens in China is not only important for China, but also for the rest of the world, including my own country, India. When I was asked by an Indian journalist last year, in December 2011, what was the most pleasing moment for me in the year that was ending, I said that I was not absolutely certain, but perhaps it was the moment when a student from Peking University said at a meeting, in a discussion following my lecture, that she had been strongly influenced by my writings. Since her kind assessment received assent from students sitting around her in this Peking University hall, it was a remarkably happy moment for me.

Chinese students know that there are many approaches to the theory of justice, and mine is no more than a contender in the arena of ideas. I would be very satisfied if they read my offerings on the subject along with studying other approaches to justice.

* * *

So, what is this book about? Mainstream theories of justice in contemporary political philosophy differ from each other in many different ways, but they have a general approach in common—the approach of "social contract" theory. The "social contract" approach was pioneered by Thomas Hobbes in the seventeenth century, and it has been the most powerful influence in the analysis of justice from the eighteenth century to our own time. This way of seeing justice is woven in different ways around the idea of an imagined "social contract" —a hypothetical contract about

social organization that the people of a sovereign state can be seen to have endorsed and accepted. The distinguishing features of the approach include taking the characterization of "just institutions" for a given society to be the main task of the theory of justice.

The contractarian approach has remained the dominant influence in contemporary political philosophy, led by the most prominent political philosopher of our time, John Rawls, whose classic book, A Theory of Justice published in 1971, presents a far-reaching statement of the social contract approach to justice in the form of what he calls "justice as fairness." The principal theories of justice in contemporary political philosophy—coming not only from Rawls but also from Robert Nozick, Ronald Dworkin, David Gauthier and others (though different from each other in terms of the diagnosis of exactly what the social contract demands) share in common the idea of a social contract that identifies ideal social institutions. Dworkin's ideal social institutions are not the same as those of Rawls, nor are the Rawlsian ideal institutions the same as those of Nozick's, but they have all tended to see the theory of justice as being engaged in identifying a particular set of "ideal social institutions." Since these institutions have to be implemented, they all need a sovereign state that does the work in line with the identified social contract. And that dependence on a sovereign state makes the applicability of the social contract approach to justice confined to individual countries, disallowing the very idea of global justice.

There was, however, another approach to justice that also emerged at about the same time in the works of other Enlightenment theorists. These theorists did not erect a fully developed structure of a theory of justice, but a cluster of important ideas from which the ingredients of a different approach—different from the social contract approach—can be devel-

oped, for an alternative understanding of the demands of justice. These thinkers—the list here will include Adam Smith, the Marquis de Condorcet and Mary Wollstonecraft in the eighteenth century, and Karl Marx and John Stuart Mill in the nineteenth, among many others, took a variety of approaches that differed in many ways from each other, but shared a common interest in making comparisons between different ways in which people's lives may go, jointly influenced by the working of institutions, people's actual behaviour, their social interactions, and other factors that significantly impact on what actually happens. My attempt at advancing a theory of justice can be seen as a development based on that alternative approach.

The analytical—and rather mathematical—discipline of "social choice theory," which had its origin in the works of French mathematicians in the eighteenth century, in particular Condorcet but also others like Borda, and which has been revived and reformulated in our times by Kenneth Arrow, belongs robustly to this second line of investigation. I have been particularly involved in developing constructive possibilities in social choice (these possibilities are quite extensive), presenting a series of results about social aggregation. Some of my writings in this area have been translated in Chinese and are available to Chinese readers. While this book, *The Idea of Justice*, is entirely non-mathematical, I have made informal use of the discipline of social choice theory in the arguments presented here.

* * *

There are three principal departures in the theory of justice I am presenting, in contrast with the social contract approach. First, rather than

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beginning with asking what is perfect justice (a question in the answer to which there could be substantial differences even among very reasonable people), I argue for following Condorcet and Smith in asking about the identification of clear cases of injustice on which agreement could emerge on the basis of reasoning. In arguing, for example, for the abolition of slavery, as both the Marquis the Condorcet and Adam Smith did, they did not have to seek an agreement on the nature of the perfectly just society.

Second, our focus need not be only on institutions (as in the social contract approach, which is interested primarily on the identification of "just institutions"). We can examine, instead, the nature of the lives that people are actually able to lead, which will of course depend partly on the institutions chosen, but not only on them. We can take direct note of people's lives and freedoms, including what they are able to do with their lives (the term "capability" is used to represent these freedoms).

Third, unlike the social contract approach which, by construction, must be confined to the people of a particular sovereign state, the alternative approach can involve people from anywhere in the world, since the focus is on reasoning and, when possible, reasoned agreement, rather than on a state-based social contract to be implemented by a sovereign state. The departure makes reasoning on "global justice" possible, which is essential for addressing such problems as global warming, or global economic crises, or prevention and management of global pandemics, such as the AIDS epidemic. There can be many agreements that globally emerge on the basis of cross-border discussions, but they cannot be presumed on the basis of decisions taken in one part of the world, excluding arguments coming from different quarters. The failure, for example, of the Copenhagen Summit on the environment in 2009, which was preceded by very little open public discussion across the globe, illustrates the futility of

omitting global dialogue in running the affairs of the world. There were differences of perspectives between, say, the Europeans and newly emerging industrial countries, such as China, India and Brazil, and these differences were not sorted out on the basis of open and interactive public reasoning.

Each of the departures relate to answering the questions: what kind of a theory of justice do we need for understanding the demands of justice, and what actions do we have good reasons to undertake? *The Idea of Justice* is an attempt to discuss the discipline of enhancing justice and remedying intolerable injustices in the world. Its application is aimed to be global, and not just national or local. I very much hope that my Chinese readers will find the problems discussed here to be as exciting as I have found them to be.

Amartya Sen

译者前言

阿马蒂亚·森是一位百科全书式的学者,著述甚丰。他因对福利经济学所作的重要贡献而被授予 1998 年诺贝尔经济学奖,其著作在那之后被陆续介绍到中国。已经出版的汉译专著就有商务印书馆的《贫困与饥荒:论权利与剥夺》、社会科学文献出版社的《论经济不平等:不平等之再考察》、上海科学技术出版社的《集体选择与社会福利》、上海三联书店的《惯于争鸣的印度人:印度人的历史、文化与身份论集》,以及中国人民大学出版社的《以自由看待发展》、《理性与自由》和《身份与暴力:命运的幻象》等。这些作品大都横跨经济学、社会学、法学、文学、历史、哲学等多个领域,不仅体现了森的广泛涉猎和深厚积累,更表明了森对于贫困、饥荒、剥夺、不平等等世界范围内普遍存在的社会现象,以及与此相关的自由、人权、民主与正义等理论问题的深切关注和严谨思考。

在本书中,森对以往所作的研究进行了全面的总结和提炼,并系统 地将其纳入关于正义问题的理论框架,那就是:我们为什么需要一个正 义的理论,以及需要一个什么样的正义理论。关于为什么需要一个正义 的理论,即为什么需要超越,而不只是停留在对于不公正的直观感受上 这一问题,他的回答是:这是因为我们必须通过理智的审思来对感官信

正义的理念

号进行批判性考察,才能确定我们目睹的悲剧是否可以成为谴责的依据,才能将不可抗阻的天灾与本可预防而未能阻止的人祸区分开来,才能将我们的视野由对于惨状的单纯观察和施救,转向对于其中不公正现象的深刻分析和解剖。森同时承认,这个世界上存在诸如歧视、迷信等非理智,但理智的运用可以消除或减少这些仍然以某种理智的形式表现出来的非理智。而回避理智的人,往往都是手握公权的卫道士。这也与森的正义思想(即我们并非寻找绝对的正义,而是致力于减少明显的非正义)相一致。

关于需要一个什么样的理论,森明确指出,正义问题所需要的是这样一个框架,即:关注实际的生活与现实,而不只是停留在抽象的制度和规则之上;关注如何减少不公正,而不是局限于寻找绝对的公正;可以遍布全球,而不只是局限于某个国家的边界范围以内;允许多种不同的正义缘由同时存在,而不是只允许一种正义缘由存在。基于此观点,森选择从现实切入,通过公共理性的视角在全球范围内来界定正义的原则。事实上,这种基于理性来认识正义的方法论与世界观并非仅源于西方世界的传统,在诸如古印度等世界其他地方早已有之;也不是人类思想史上仅有的一次选择,因为纵观古今,都可以看到着眼于制度安排的先验主义与着眼于现实的比较主义这两种观念之间的并存与对抗。

下面将对本书的要点进行归纳和阐发,以便读者更好地把握和理解本书的主旨与逻辑。最后将对译文中的某些表述作必要的说明和诠释,以方便读者的阅读。

本书共分四个部分。第一部分内容是正义的要求,即推进正义所需要的理智是什么这一问题。森指出,对公正与非公正问题需要进行客观的思考,而这种客观性需要依靠理智来进行道德评判。选择理智的审思并不在于它必然能保证作出正确的判断,而在于它能使我们尽可能地客

观。亚当·斯密提出的"中立的旁观者"为理智提供了一种实现方式,即需要引入远近不同的经历的多种观点和视角,通过站在"一定的距离之外",来审视自己的感受。这就使得公正的原则可以具有多样性,而不必根据刚性的单一原则来确定;也使得我们可以通过理智来审视包括情感在内的许多不同缘由,以寻求尊重与包容,从而避免理智沦为草率且不当的自负,或者局限于冰冷无情的算计。由于所有人都能通过开放地接纳信息反思来自不同地方的观点,并采取互动的思辨来讨论如何看待背后隐藏的问题,以此达到理智,因此无论是一般地对于民主政治而言,还是具体地对于追求社会公正而言,不受限制的公共理性都是非常重要的。

正是由于理智的实践性和开放性, 森在肯定了罗尔斯正义论的重要 贡献后,也对这一正义理论的奠基之作提出了批评。第一,在罗尔斯作 为公平的正义理论中,几乎只对抽象的"公正制度"予以直接的关注, 却不那么关心具体的"公正社会",而后者同时取决于有效的制度和实 际的行为方式。长久以来,人们在经济与社会分析中都将实现公正等同 于寻找正确的制度结构。然而事实表明,这些宏伟的制度方案都未能实 现其愿景,它们能否产生好的社会结果完全有赖于各种社会、经济、政 治及文化状况。如何把公正原则的运作与人们的实际行为结合起来,正 是对社会公正进行实践理性思考的核心,而将制度本身视为公正的体 现,只会使我们陷入某种形式的制度原教旨主义。第二,罗尔斯所采用 的社会契约方法,无可避免地将追求公正的参与者限定在某个既定的政 体或"民族"之内,而正义要求无偏颇的中立与客观。因此罗尔斯所采 用的是"封闭的"中立性,即将观点与关注所涉及的范围圈定在一个主 权国家的成员之中,由某个社会或国家的成员作出中立的判断。相反, "开放的中立性"指的是,由于彼此之间无论远近所负有的相互义务、 通过各种渠道形成的相互依赖,以及为了避免地域性的偏见,中立的评 价应该包括来自所关注的群体之外的判断。因此我们无疑需要超越国家 的边界,在全球范围内评价一国内部的公正。

在此基础上,森进一步提出了他所主张的社会选择理论。社会选择程序采取的形式是:从某种"社会视角"出发,根据相关主体的评价,对不同的社会状态进行比较。因此社会选择理论关注事物之间的比较,而不是先验的制度;允许存在不完整的排序,而并非寻求面面俱到的完美方案;认识到存在多种合理的,而不是唯一正确的判断原则;强调公共理性和反思,而不是一成不变的公理性答案。这就与霍布斯、罗尔斯以及诺齐克等人基于契约方法的公正理论具有根本的不同,因为契约方法实际上是在寻找一种并不存在的"公正制度",并假设一旦契约达成,人们的实际行为将会遵循契约运转所要求的规范。

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本书的第二部分内容是推理的形式,也就是上文所提及的理智思考可以怎样进行。首先是理智思考的视角。既然我们所能看到的事物,与我们站在何处、想要看到什么是相关的,并且也将反过来影响我们的信仰、认识和决定,那么在政治和道德评价中,就需要特别注意所处位置对于我们所作的判断可能产生的潜在影响。寻找某种客观中立的认识,是探讨道德伦理问题的核心所在。尽管我们对世界的整个认识都建立在现有的感知和所产生的思想上,而我们的感知与思想完全依赖于我们有限的生理感官,但这并不意味着我们不能以更全面的视野来部分或者完全克服位置所带来的局限。我们一方面可以通过合理地选择比较对象,而不是先验主义的乌托邦理想,来尽可能地避免位置产生的局限对我们判断的影响,另一方面通过开放的中立性来最大限度地拓宽我们的视野。

其次,理智思考的内容究竟是什么。理性选择理论将行为的所有动机都归于追求自身利益,这或是与他人完全无关的自利,或是关注了其他人的利益但也间接提升了自己的福利。对此,森认为,我们可以以更广阔的视野和更有说服力的方式来描绘理性选择,即将我们的选择置于