

The Idea of Justice: A Philosophical Approach

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Abstract

The concept of justice is a fundamental and universal value that guides human actions and interactions. It is also a complex and contested topic that has been explored by various disciplines and perspectives. Justice can be understood as the proper balance between rights and duties, fairness and equality, rewards and punishments, and the role of the state and society. Different theories and traditions of justice have different criteria and methods for determining what is just and unjust, and how to achieve and maintain justice. This paper provides an overview of the main approaches and debates on the concept of justice, such as utilitarianism, contractarianism, egalitarianism, communitarianism, and cosmopolitanism. It also discusses some of the contemporary challenges and issues related to justice, such as human rights, democracy, diversity, and global justice. The paper aims to offer a comprehensive and critical introduction to the concept of justice and its implications for the world today.

Keywords: justice, rights, duties, fairness, equality, traditions, utilitarianism

Introduction

Francis Bacon, "If we do not maintain justice, justice will not maintain us." With the advent of the concept of the State, everyone expected a better administration. Whether it was the time of Kingship or the Britishers, everyone wanted that they should be given justice. The notion of justice, as Henry Maine writes, has developed from the Themist stage. In the Themist stage, the old aged person was the head of the family and it was believed that the goddess of justice i.e., Themist was seated on the tongue of the head when he directed the family. Everyone in the family was governed by the directions of the head and it was the first instance when justice was introduced in the society. Now, without discussion on justice, the true meaning of gender justice is not tenable.

The concept of Justice occupies a vital and unavoidable position in ethics and legal philosophy. It may be termed, in some places as Dharma or a system of ruling or property of law. It is always applied in the field of law, and public policies, and if these are found unethical and unjust, must be rejected at all. One who gives justice is a judge or arbitrator. It is merely a right or ethical. It is a target rather than a source. An ethical, moral and righteous action produces what is justice. To treat all as equal is justice, and should be treated alike is also justice. Justice is not universal by nature. It is relative and it varies with time and place. What is just at a particular time, may be found different at another.¹

People always expect a society of justice where no one takes advantage of the shortcoming of others. They want a society without greed and poverty, a society of fraternity where everyone would respect the dignity and worth of human personality.² According to Plato, justice and injustice are subject to the rationale of the majority of the people. When an action is supported, it is justified and when it is opposed, it is injustice and that they pay lip service to justice but in the end, turn to injustice against their interests.³

The word "Jus" refers to 'to join' or 'fitting.' Thus, justice carries the meaning of cementing and joining up human beings together. In its literal sense, Justice refers to fairness, which is shown in public dealings.⁴ The word justice means to maintain or to administer by the

¹ Dhayani, S.N., (1992) *Fundamentals of Jurisprudence-The Indian Approach*, p-146.

² Luther, Martin, Our God Is Marching On! Speech presented outside the State Capitol, 2016 .

³ The Republic Book II, 375 B.C.

⁴ Cambridge Dictionary.

unbiased adjustment of conflicting claims or the assignment of merited rewards or punishments.⁵ It also means 'the fair treatment with people' or 'the quality of being fair or reasonable.'⁶

Thus, the concept of justice may be regarded as dealings with human beings. It produces the notion of equality. It requires that no discrimination should be made among the various members of society. It means the fulfilment of the legitimate expectation of the individual under laws and to assure him the benefit promised therein. Justice tries to reconcile individual rights with social good.

In society, there are certain values as equity, equality, liberty and fraternity which play a vital role in administering the State through the executive, legislature and judiciary. But sometimes there may be some conflict between these norms. Therefore, the State needs a constant process of adjustment by way of justice. Justice here assumes the key role of a manager to adjust and administer these values.

Thus, the concept of justice is dynamic. This is an evolutionary and progressive approach. The Greek concept of justice was closely related to ethics. Greek scholars defined justice in their own way, some of which are mentioned below:

- According to Cephalous, justice refers 'to telling the truth and repayment of one's debt.'⁷
- Polemarchus defines justice as 'what is due to every person in society.'⁸
- Thrasymachus opines that justice is to serve the weaker.⁹
- Justice, according to Plato is the 'Quality of the Soul'. He treated justice as a class-based phenomenon. He believed in the natural inequality of men and hence he advocated the class system through which he divided people into four categories, namely, the ruling class, the military class, the producing class, and other craftsmen. He said that every class has specific functions and should confine his activity to the proper discharge of his functions. Plato treats justice in terms of morality and therefore, to him justice exists only in an ideally constituted community.

According to Aristotle, justice is a social virtue that directs relationships between persons. Justice produces advantages to others and remains good in the eyes of those others. Thus, the administration of justice is always required to establish equity.¹⁰ He classified justice into two categories, namely, distributive and corrective justice.

- **Distributive Justice:** when justice deals with the distribution of rights, honors, goods, etc. to the public it is called distributive justice.¹¹ Gender Equality is thus, part of distributive justice. The women's right to vote or labours' right to appropriate wages and amenities without any discrimination, right to form unions come within the scope. Similarly, the right to safety and security of citizens falls under distributive justice.¹² In a democracy, distributive justice is promoted by the legislature but in other non-democratic states, it is confirmed by the tyrant or other sovereign body.
- **Corrective Justice:** Corrective justice refers to the system in which the aggrieved person is awarded compensation. He emphasizes that corrective justice always stands against

⁵ Merriam- Webster.

⁶ Oxford Advanced Learner's Dictionary.

⁷ Plato,(375-BC), *The republic by Plato book-1*, available at <https://www.gutenberg.org/files/1497/1497-h/1497>.

⁸ *Ibid*

⁹ *Ibid*

¹⁰ *Ibid*.

¹¹ Huang Xianzhong, (2007) *Justice as a virtue: An analysis of Aristotle's virtue of justice*. Frontiers of Philosophy in China, 2(2)265-279.

¹² Anton-Hermann Chroust & David L. Osborn, (1942) *Aristotle's Conception of Justice*, 17 Notre Dame, available at <http://scholarship.law.nd.edu/ndlr/vol17/iss2/2>.

According to Karl Marx, the notion of justice in a capitalist social system is based on the capitalist mode of production and the capitalist relations of production. He says that justice in such a capitalist society is coined to protect those who have the means of production. Marx says that the law of the State is controlled by the persons who control the means of production. To him, the idea of justice and its content varies with the economic interest of the ruling class.¹³

THE CONCEPT OF JUSTICE IN THE INDIAN LEGAL SYSTEM

The concept of justice in the Indian legal system is embedded for Hindus in Dharma as propounded in the Vedas, Puranas, and Smriti. For Muslims, it is found in Islam through the Holy Quran, Sunnah or Hadith, Ijma, and Qiyas.

The word Dharma refers to justice i.e., Nyaya. Nyaya means what is right, moral, pious or religious. Islam also creates a notion of what is ethical, justified and allowed. Thus, whether it is Dharma or Islam, it denotes natural qualities, duties, laws and customs. In this sense, the Indian concept of justice is to preserve or conserve a just and social order.¹⁴ Let's see the concept of justice according to both legal systems.

a. The Hindu Legal System and Concept of Justice

In the Hindu legal system, Justice or Dharma stood for the Varna system. The concept of Varna i.e., Brahmins, Kshatriyas, Vaishyas, and Shudras is similar to the Platonic concept of justice. The State or King was considered the protector of Varna. The system was regulated according to the classified functions of each varna and it was considered unjustified when social limits were crossed by anyone.¹⁵

Manu emphasized that Justice directs the mutual obligations of the individuals and society. In this way, he created the significance of justice by pointing out that when justice is violated, justice is destroyed, when it is preserved, preserved. Therefore, justice must not be violated. He believed that justice remains with a person not only in his lifetime but after death also. Manu expected that the King of a state must follow the major responsibility of providing justice based on law. He gave directions to make justice lawful, unbiased, and honest which was clear from the system of the lawsuit provided by Manu himself. He held the word Dharma to mean not only individual and social duties but also to mean law and justice. To him, Dharma as justice was above the king. The King was to be impartial in the administration of law and justice and he was bound by them. The king had to treat every offender as a criminal whether he was his parent, wife, son, teacher, priest, or friend.¹⁶

The interesting part of Manu's justice was that the social order of classes influenced the administration of justice. Justice was given according to the status of the class. Brahmins' status was higher and they were a source of law and justice. Kshatriyas and Vaishyas were also part of a noble society. The inequality among social classes was found in matters of rights, duties, and punishments. The law and justice were depending on one's Varna and social status. Discrimination between Varnas was a rule. While the principle of equality was observed only within the confines of each Varna, the law discriminated between these Varnas. The law prescribed different rates of interest to different Varnas. For example, A Brahmana could borrow at the rate of three or four per cent. While the other three Varnas could borrow at five per cent, for a month.¹⁷ The researcher, here does not establish an idea of justice through class-based

¹³ Donald Van De Veer, (1973), *Marx's View of Justice, Philosophy and Phenomenological Research*, Vol-33, pp.366-386.

¹⁴ Jois M. Rama J. (2001), *Legal and Constitutional History of India*, Universal Law Pub. Co. Pvt. Ltd. p-3.

¹⁵ Vasant Moon, (1989) *Rd. Babasaheb Ambedkar's Writings and Speeches*, Rd. Ambedkar Foundation Ministry of Social Justice & Empowerment, Govt. of India, New Delhi, Vol-5.

¹⁶ Manu Smriti VIII. 335.

¹⁷ Manu Smriti VIII, 142.

discrimination or support the theory of justice given by Manu. The object of the study and writing is to define justice through ages and candid writing, justice cannot be served through injustice.

The concept of justice is incomplete without a discussion of the writings of **Kautilya** who was the first ancient law-giver who gave every man and woman the right to approach the court of law. He writes that the law should not be handled by ignorant and unqualified people who get tampered with and remains incomplete. He prescribed a panel of three members acquainted with sacred law and three ministers of the King to carry on the administration of justice. He prescribed a judicial organization and procedure with a high sense of honesty and impartiality.¹⁸

b. Islam and Concept of Justice

The concept of justice is found in almost every religion and **Islam** is not an exception. The principle of justice is an unavoidable part of Islam. There are many instances where we find that Islam has declared certain norms which guarantee justice. It lays down that to maintain a proper standard of justice, place things in their rightful position and give everyone their rightful due. A contravention of either of these principles would amount to injustice.¹⁹

The Holy Prophet expressed His views on gender equality through the Holy Quran, 'O' people be careful of your duty to your Lord Who created you from a single being and created its mate of same (kind) and spread from these two many men and women. (Holy Quran, 4:1)

The Quran at various places had reminded this principle that Allah does not forgive the wrongdoers. There is no blame on those who enforce justice after being wronged.²⁰

The Prophet has declared that for those who do good deeds, they shall be given the best reward and more blessings. They will face neither darkness nor any disgrace.²¹ While deciding their disputes, Muslims should submit their issues for arbitration as the Holy Prophet has directed them. Being true believers and without any doubt, they follow the instructions given by the Prophet.²²

In the Holy Quran, there are certain terms like 'adl', 'qist', 'mizan' etc. that refer to justice. The word 'adl' refers to divine justice equal to fairness and equality. The meaning of 'adl' as equality may be expressed either in qualitative or quantitative terms. In the qualitative sense, it refers to the principle of equality and in the quantitative sense, it refers to the principle of distributive justice.²³

Thus, justice is an unavoidable concept of law and in simple words, we can say that the end of law is justice. It is an instrument to maintain order. Without Justice law seems worthless. Law is an instrument, and justice is an outcome. Without justice, the law remains in a vacuum.

¹⁸ Sastry, R. Shama, (2019), *Kautilya's Arthasastra*, book-III, Arjun Publishing House, New Delhi, p-213.

¹⁹ Khan Muhammad Zafarullah, Judge of the International Court of Justice, *The Concept of justice in Islam*, p-86. Retrieved from <https://www.alislam.org/library/books/The-Concept-of-Justice-in-Islam>.

²⁰ The Holy Quran, 42: 41.

²¹ The Holy Quran, 10:27.

²² The Holy Quran, 10: 27 "But no, by thy Lord, they are not believers until they make thee judge of all that is in dispute between them and then find not in their hearts any demur concerning that which thou decides and submit with full submission."

²³ Khadduri, Majid, (1984) *The Islamic Conception of Justice*, JHU Press, London, p-7.