

THE VALUE OF JUSTICE FOR THE FAMILY AND SOCIETY

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Theoretical Questions: a Brief Introduction

The idea of justice and the concept of the value of justice can be read and understood with regards to various -yet interrelated- dimensions and notions (ontological, moral, symbolical, realistic, socially constructed, adapted to specific socio-cultural value contexts), many of which we can already detect in early discussions concerning the nature and character of justice. More specifically, the moral and ontological dimension of justice was first introduced by the same ancient Greek philosophy that explored the relationship between the individual (in fact the individual with an active faculty of soul, body and mind) and the social (or society as moral-civic order). For instance, Plato defined justice in terms of the moral and natural virtue combining wisdom, courage and continence whilst Aristotle introduced justice as reflected in the individual's behaviour and everyday life.

In the context of the development of new ideas concerning the differences or even radical separation of the divine and the civic society, this latter definition was frequently filtered through St. Thomas Aquinas' re-introduction of Aristotelean thought to northern-western Europe and was incorporated in many neo-Aristotelean intellectual movements, including the Enlightenment (and even more so the German and Greek Enlightenment). Hence, in the wider ideological context of religion and specifically of Christianity, the ideal of justice was related to the conviction that 'all are equal under God', a collective 'fantasy' but also a goal to be achieved. Soon, this idea of equality as coterminous to (social and moral) justice dominated the theories of natural law. In the context of the Enlightenment (this time including the French and Scottish Enlightenment) and the ideas of the French revolution, the values and principle of equality, liberty and justice defined the fundamental triad, the building-ideas as it were behind the values, ideals of and demand for

democracy, society and the birth and sociopolitical organization of western European nation-states. Today, a neo-Aristotelean movement seems to prevail in the humanities and social sciences, more so in the U.S.A and Australia and less so in Europe. In 1971, for example, John Rawls' *A Theory of Justice* opened up a scientific dialogue concerning the relationship between justice and politics, the 'political approach to justice' (as discussed in the revision of Rawls' work). From the 1990s onwards, the literature on the subject was enriched with many and quite influential books and essays [1-27].

In general, there are many references to justice that follow Aristotle's thinking. These include the offering of an apology and the notion of 'catharsis' as the elementary and fundamental preconditions of restorative justice, the acceptance of guilt and responsibility on the part of the offender, the distinction between different crimes as well as the introduction of the idea of leniency. Here, the role of the city-state ('society') in the formation and protection of the law is definitive and remains parallel to the E.U ideal of justice as is defined today [28]. To return to Aristotle, however, in a rather wider approach, restorative justice is seen as a form of social justice that is applied and practiced in the everyday and aims at the decrease of social and financial inequalities.

Practicing Justice: A Challenge for Everyday Life

In most cases, the idea of justice and the law is one of the fundamental principles of socialization; the internalization of this value on the part of the individual defines the wider context of the different theories of social control. In other words, such internalization of the primary principles of socialization facilitates both the effective social and individual control of primordial instincts and the completion of the individual's personality as a member of the community. This process, however, is best understood and concretely realized in relation to a specific socio-cultural context. In turn, it is

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demarcated according to the social inequalities that define this context. Hence, the notion of justice and the value of the law –and its moral connotation in particular- is both defined and specified by its opposite.

As far as research in the area is concerned, we trace and examine the multi-faceted inequalities (gender, financial, cultural inequalities etc.) within the family, society, the economy and all other facets, social structures and institutions. At the level of policies specifically, it is worth mentioning programs of 'law capability' education (UK) or 'justice education' (U.S.A and Canada). These include educational programs for young people and aim at the strengthening of the understanding and internalization of the value of justice and the law, the sharing of knowledge of human rights and civilians' responsibilities, the introduction of these young people to the philosophy, principles and above all the function and organization of various justice systems, and hopefully, to the significance of the willingness to consciously accept and participate in the justice-making processes and values in their everyday lives. More often than not, participation in these processes is closely related to people's attitudes towards different social institutions. E.U social research in Greece for example focused on the Greeks' trust to

these institutions [29]: Trust in the Parliament, Trust in the Law and Trust in the Police. Nevertheless, with the exception of certain –often secondary- classes on Civic Education. Greece, is yet to introduce the law-capability educational programs that would focus on the significant questions on justice and the value of justice.

Conclusion

The value of justice in society and the family is a wide, abstract and complex context that derives its meaning only from its opposite, i.e. social injustice and inequality. The history of social revolutions and social uprisings is the history of the realization of the struggle for justice and equality. Despite the ambivalence of the concept as an ideological and social construction, the value of justice is a fundamental principle of the socialization and foundation of democratic social formations. The experience of the value of justice in the everyday life is an eloquent instance of best-practice; we hope that the time has come for the value of justice to escape, to transcend the boundaries of a mere rhetoric and to, therefore, be transformed into an everyday, conscious praxis.

References

1. Weinrib, Ernest, J (1995) "The Idea of Private Law" (Cambridge, MA: Harvard University Press),
2. Solum, Lawrence, B. 2003, "Virtue Jurisprudence: A Virtue-Centred Theory of Judging", *Metaphilosophy* 34: 178-213,
3. Posner, Richard A, "The Homeric Version of the Minimal State", *Ethics* 90: 1-27, 1979
4. Nussbaum, Martha C 2000, "Aristotle, Politics, and Human Capabilities: A Response to Antony, Amerson, Charlesworth, and Mulgan", *Ethics* 111: 102-140,
5. Kelly, J.M. 1992, "A Short History of Western Legal Theory" Oxford: Oxford University Press,
6. MacIntyre, Alasdair 1981, "After Virtue: A study in Moral Theory", Notre Dame, IN: Notre Dame University Press,
7. Miller, D. (1976), "Social Justice", Oxford, Schneewind,
8. J.B. (1982), "Virtue, Narrative, and Community: MacIntyre and Morality", in: *Journal of Philosophy* 79, 653-663,
9. Anton, John and Preuss, Anthony. "Essays in Ancient Greek Philosophy IV. Aristotle's Ethics" Albany: SUNY Press. 1991,
10. Aubenque, Pierre. "The Twofold Natural Foundation of Justice According to Aristotle" in *Aristotle and Moral Realism*. p. 35 – 47,
11. Barnes, Jonathan, Schofield, Malcom and Sorabji, Richard. "Articles on Aristotle, Vol. 2 Ethics and Politics". New York: St. Martins Press. 1972,
12. Barnes, Jonathan, Schofield, Malcom and Sorabji, Richard. "Articles on Aristotle, Vol. 3 Ethics and Politics." New York: St. Martins Press. 1973,
13. Black, Henry Campbell. "Black's Law Dictionary." St. Paul, Minnesota. West Publishing Co. 1979, Cooper, John M. "Reason and Emotion". Princeton, New Jersey. Princeton University Press. 1999,
14. Cooper, John M. "Aristotle on the Goods of Fortune." in Cooper. 1999,
15. Curzer, Howard J. "Aristotle's Account of the Virtue of Justice". *Apeiron*. Vol 28, 1995. p. 207 – 238,
16. Engberg-Pedersen, Troels. "Aristotle's Theory of Moral Insight". Oxford: Clarendon Press. 1983, 17. Engberg-Pedersen, Troels. "Justice at a Distance - Less Foundational, More Naturalistic: A Reply to Pierre Aubenque." in *Aristotle and Moral Realism*. 1995, Grant, Sir Alexander. "The Ethics of Aristotle, Essays and Notes". London: Longmans, Green and Co. 1885,
18. Irwin, Terence. "Aristotle's First Principles". Oxford: Clarendon Press. 1988, Jackson, Henry. "The Fifth Book of the Nicomachean Ethics of Aristotle". New York: Arno Press. 1973,
19. Joachim, H.H. 'Aristotle, Nicomachean Ehtics' Oxford: Clarendon Press. 1951,

20. Kenny, Anthony. 'The Aristotlean Ethics: A Study of the Relationship Between the Eudemian and Nicomachean Ethics of Aristotle'. Oxford: Clarendon Press. 1978,
21. Kenny, Anthony. 'Aristotle on the Perfect Life'. Oxford: Clarendon Press. 1992, Keyt, David. "Aristotle's Theory of Distributive Justice." in Miller and Keyt. 1995,
22. Kraut, Richard. 'Aristotle on the Human Good'. Princeton: Princeton University Press. 1989,
23. Kraut, Richard. "Two Conceptions of Happiness", *The Philosophical Review*, Vol 88, Issue 2, 1979. p. 167 – 197,
24. Leyden, W. Von. 'Aristotle on Equality and Justice'. London Great Britain: The MacMillan Press Ltd., 1985,
25. Miller, Fred Dycus and Keyt, David. 'A Companion to Aristotle's Politics'. Oxford, United Kingdom: Basil Blackwell Ltd, 1991,
26. Miller, Fred Dycus. 'Nature, Justice, and Rights in Aristotle's Politics'. Oxford, United Kingdom: Clarendon Press, 1995,
27. M. Gagarin, 'The Unity of Greek Law', in M. Gagarin and D. Cohen (eds) *The Cambridge Companion to Ancient Greek Law*, Cambridge University Press, 2005
28. Artinopoulou, Vasso, *Aristotle: The Restorative Justice Pioneer* (forthcoming)
29. European Social Survey, Findings of field research, 4th wave, Greece-Europe, National Center of Social Research, edited by I. Tsiganou, 2009.