

## THE ARISTOTELIAN CONCEPTION OF GENERAL AND PARTICULAR JUSTICE: A RECONSTRUCTION<sup>1</sup>

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***Abstract.** There are different interpretations of the Aristotelian conception of justice. The article deals with one more possible solution to the problem of interpretation. The author assumes that Aristotelian conception is as close to the contemporary language of moral and sociological theory as possible. Our language, as well as structural sociology of Talcott Parsons reveals a twofold nature of the subject of justice. Justice appeals to values, but justice also appeals to norms. On the level of values justice functions as the most fundamental system of social orientation, on the level of norms justice functions as a system of integration. What Aristotle calls “general justice” may be interpreted as the legacy of Plato, justice of the “most sacred myth”, revealing the highest value of the society. On the contrary, “particular justice” is a system of norms, moral or legal, which constitute the grass roots of everyday morality. Aristotle, unlike Plato, tends to trust in the validity of the second, but he does not deny the importance of the first.*

***Key words:** Aristotle, Plato, General Justice, Particular Justice, Distributive Justice, Retributive Justice, Commutative Justice, Equal Justice, Unequal Justice.*

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## **Introduction**

Justice is the main topic and the most important subject of the contemporary political and moral philosophy. It has not always been so, but the pride of place, which the problematic of justice occupies now, should be regarded as the return to the very roots, the traditions of Plato and Aristotle. It is in the framework of this tradition that our ancestors came to understand the possibility to change and ameliorate the social institutions, by improving their justice. In previous years these social institutions were supposed to be fixed and rooted in sacred tradition. Later on the focus of political and moral philosophy was subjected to change. The Middle Ages were predominantly concerned with the interpretation of the eternal truth of the Holy Scripture. The demise of the feudal society and the emergence of the nation-state, which took place in the 17<sup>th</sup> century, shifted the focus of philosophical interests to the foundations of political power, rights and duties, making them the core political problem. When people got used to the political state and the atomized social order the focus shifted again, this time to the problematic of political responsibility and the constraints on political power.

Since the middle of the 19<sup>th</sup> century, when anarchism and absolutism were no longer regarded as the rivals of the reasonably constrained political power, the problematic of justice regained its actuality. This return did not last long, since shortly after that political philosophy fell prey of positivism and linguistic analysis, alien to normative problems. But by the end of the 1950<sup>th</sup> the normative philosophy was reclaimed again and since that time the problematic of justice constitutes to constitute the core of political philosophy as well as the debates of public politics. One of the results of this transformation was the return of the classical heritage of Aristotelian theory of justice.

In what follows I am embarking on reconstruction of the Aristotelian theory of social justice. The very language of justice, the major definitions of the types of justice and formal distinctions between different spheres of justice were developed by Aristotle but the proper interpretation of the classical legacy continues to be the subject of heated philosophical debates.

## **The twofold subject of justice**

I hold that the proper reconstruction of the Aristotelian conception of justice should be pragmatic. It must be developed as close to the perfect

fit with the contemporary ordinary language of morals and the contemporary fundamental sociological theory as possible. Aristotelean theory of justice sounds amazingly up to date and better than the majority of contemporary theories of justice fits the contemporary practice and rightfully so, since all the major definitions of ethics are Aristotelian to the core.

If we examine the current language of morals we make sure that the term justice is predominantly reserved for the two types of moral situations. Justice corresponds to the special system of values, responsible for social orientation and, at the same time, to moral norms, responsible for integration. Both of them make justice “the first virtue of social institutions” (RAWLS, Jh, 1971, 3). Still, Aristotle understands the function of justice differently from Rawls. When we turn to Aristotle, the primary subject of justice sounds to be a twofold. It is either the general system of values, or the particular system of everyday norms, or both. Both of them bring harmony and proportion to the social life but in different way. When we draw the distinction between justice, as a norm, or, rather, a system of norms and justice as a value, we do it by taking into consideration their different social functions. The first, justice as a set of particular norms, should be regarded as the major driving force of social integration, here the integrative function of justice should be taken into account. When we turn to justice as a value, it should be regarded in terms of the function of social orientation, within what Parsons called the societal community<sup>2</sup> (PARSONS, T., 1971). These are the two major social functions, different but designated by the same term ‘justice’. These different functions of justice correspond to different types of justice: particular and general. They both tend to bring the members of society together but in different way. Justice as social value brings people together by means of indicating the distant social goal, or ideal. Justice as social norm brings people together by integrating them, by inflicting on individuals obligations of fairness and equity, by means of law and morality.

Any society needs some form of integration and any society needs some form of value orientation. Any society needs some distant ideal, which brings the members of the society together and any society needs

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<sup>2</sup> According to Parsons societal community – is the integrative core of any society.

the norms of law and morality to provide integration. We refer to justice, when we distribute something, we recall justice, when we punish the evildoers, and when we exchange some goods with our fellow citizens. The society is generally regarded as a fair one if it upholds the justice of exchange, distribution and retribution. Since the relations of distribution, exchange and retribution may exist only by means of proportional equality or inequality of the participants, it is possible to regard these relations as the relations of just equality or just inequality. The twofold subject of justice in the philosophy of Plato and Aristotle shades some light on the disputed problem of the major types of justice, especially the distinction between general and particular justice.

### **General Justice**

«Nicomachean ethics» draws a distinction between two types of justice, general and particular. The general justice is mentioned only once by Aristotle at the very beginning of book 5. But since there is no definition of general justice in the text, its meaning remains vague, provoking rivalry interpretations. B. Hardy develops “motivational” interpretation. He holds that the “general justice means lawfulness and particular justice means fairness and equity.” (HARDIE, W.F.R, 1985, 185). If we share this interpretation, we have to regard general justice as a virtue of sticking to the law, while injustice as the violation of law. Particular justice would mean fair equity and treating other people as equals. The vice of particular injustice would mean greed (pleonexia) and inequity. The following words of Aristotle are usually cited as a proof: “...Hence there is another sort of injustice that is a part of the whole, and another way for something to be unjust by being a part of what is unjust in the sense of being unlawful.” (EN 1130a, 33 — 1130b, 5.)<sup>3</sup> B. Williams criticized this interpretation for its inconsistency. It is possible to violate the law and be greedy at the same time; it is also possible to be greedy and not to violate the law. It is also true that the law itself may be unjust, so that the violation of the law would be a just thing to do. (Williams, B. 1980, 190). One more almost universally shared interpretation is based on the difference of subjects.

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<sup>3</sup> The traditional symbols for the titles of major Aristotelean works: EN – stands for Nicomachean Ethics, MM – Magna Moralia, P – Politics.



Particular justice corresponds to the actions of a state and public officials, general justice to the actions of ordinary people. In this interpretation the general justice would mean the same as the public justice. This point of view is proved by many passages in the text of the ‘Nicomachean Ethics’, where particular justice sounds like being closely related to law. But that can hardly go as a proof since the Greeks did not draw the distinction between law and justice.

My own interpretation of the meaning of general and particular justice is related to two different functions of justice. The twofold subject of justice, revealed in the structural sociology of Parsons presupposes two interrelated functions of justice. The first function is carried out by justice as value, the second by justice as a system of norms. By general justice we should understand the most fundamental moral value and ideal of the common life, the highest legitimation of social institutions, and the highest purpose of the society. The function of this ideal is social orientation. What we call general justice predates philosophical reasoning and often goes far beyond reason at least in traditional societies. This general justice in its practical application may not necessary bear the name of justice but can be referred to as Highest Law, Supreme Good, Highest Reason, etc. General justice is the basic social value, which provides social orientation, unlike the particular norms of justice, which fulfil integrative function.

Aristotle does not say much about general justice, simply because everything was already said by Plato. It was Plato who used to put a stress on general justice, sometimes even blowing it out of proportion, while totally disregarding particular justice. Unlike Plato, Aristotle puts stress on particular justice. But Aristotle does not disregard general justice; he simply tends to believe that particular justice or the justice of everyday exchange, distribution and retribution, the justice of willing participation of rational individuals, who shape their own society by their own hands and honoring the norms of justice, plays no less important societal role than the general value of justice, which exists as tradition, or is proclaimed by philosophers. In fact general and particular justice work hand in hand

and can hardly be separated. It is true that general justice is generally disregarded in the Western liberal tradition. It is also true, that the Eastern Orthodox tradition and Russian social philosophy, on the contrary, put a stress on general justice and disregard the suspicious particular justice.<sup>4</sup> But in both cases, neither general justice, nor particular justice can be totally ignored in the society. The healthy balance of the two is responsible for sound social life. It is not my discovery. In the Second Treatise on Government John Locke writes: “Two foundations there are which bear up public societies; *the one a natural inclination*, whereby all men desire sociable life and fellowship; *the other an order, expressly or secretly agreed upon, touching the manner of their union in living together* (the italics are mine. B.K.): the latter is that which we call the law of a commonweal, the very soul of a politic body, the parts whereof are by law animated, held together, and set on worked in such actions as the common good requireth.” (Locke, Jh. Book II – Of Civil Government. Chap. XI Of the Extent of the Legislative Power. Sec. 135).<sup>5</sup> Aristotle tends to believe (as well as the contemporary liberal tradition) in natural inclinations. Plato tends to believe in an order expressly or (better) secretly agreed by philosophers. The first we may call particular justice, the second – general justice. The problem for each and every real society is the choice between the two. Aristotle puts a stress on the first, because he, unlike Plato, believes in the good inclinations of an individual. Plato puts a stress on the second, because he does not.

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<sup>4</sup> The Russian religious philosophy coined the term “Sobornost”, which is exactly what Plato meant by justice as the harmony in terms of the general structure of society and to which Aristotle referred to as general justice. Even now, the problematic of particular justice is almost completely ignored in Russian political philosophy and public debates.

<sup>5</sup> The distinction between two major types of justice is evident to the philosophers of law. Although they put it in somewhat different terms. Wacks holds “‘Justice’ incorporates both individual rights and collective goals which would be recognized by the ideal legislator, dedicated to treating citizens with equal concern and respect” (Wacks, R. Philosophy of Law. Oxford, Oxford University Press, 2006, p. 48).

### **The Types of Particular Justice**

By particular justice Aristotle seems to understand morally justified proportion in the distribution of benefits and burdens of common life, their exchange and retribution. From the point of view of the general sociological theory of Parsons the particular justice is a system of norms (unlike values of general justice), which are responsible for the integrative function in the society. As a result, particular justice looms large in the theory of law, economics, sociology and ethics, but not in social philosophy, which deals mostly with the matters of general justice. General and particular justices are closely related as general value and particular norm.

According to the classification of Aristotle there are three major types of particular justice: distributive, retributive and commutative justice (justice of exchange).

#### **Retributive justice**

Regarding the meaning of retributive justice Aristotle wrote: “That is why reciprocal equality preserves city-states.” (Pol., 1261a, 32). The retributive justice presupposes the actions of a subject, who retributes by good or evil for some good or evil, which he supposedly received. The act of receiving this good or evil is not related to the existent expectation or joint enterprise, or mutual agreement. An example of retributive justice is gratitude, also revenge or punishment. The retributive justice is most common in the system of justice from the rule of talionis (teeth for a teeth, eye for an eye) up to the contemporary criminal and civil law. Retribution as a social action is supposed to be founded on impartial norms of law or morality. Aristotle gives a characteristic to such a justice: “For it is by proportionate requital that the city holds together. Men seek to return either evil for evil and if they cannot do so, think their position mere slavery; or good for good, and if they cannot do so there is no exchange, but it is by exchange that they hold together.” (EN, 1132b 34–1133a, 5).

The retribution may be either on equal or unequal terms. It is an equal retribution, if, for example we return to our neighbor a bushel of corn, which we have borrowed. In all other cases it may be unequal, but still proportional. The unequal retributive justice may be based on geometrical proportion and take into account the social status, position, age or the degree of social danger or necessity. Aristotle holds: “For it is

not just, if a man has knocked out somebody's eye, merely that he should have his own knocked out: rather, he should suffer more, if he is to observe the proportion. For he was the first to begin and he acted unjustly: he acts unjustly in both respects, so that the acts of injustice are proportional, and for him to have more done to him than he did is just.”( MM, 1194a, 38-1194b, 3). In this case the retributive justice upholds the ideal of social punishment and social reward. The one, who suffered the injustice, applies to the communal system of norms. The retributive geometrical proportion may be based on social status. Aristotle writes: “If an official has inflicted a wound, he should not be wounded in return, and if someone wounded an official, he ought not to be wounded only but punished in retribution.” (EN, 1132b, 26-30).

Isos (disproportion) – is a vice of injustice, which may take place in case of retribution. The just retribution should be either equal or proportionally unequal measure. It would be unjust and disproportional to punish a thief by eliminating all his kin. One particular case of such an injustice is the case of humiliating of another person or a group by means of aggrandizement of yourself or your group. This particular vice has been known as ‘hubris’. In the work entitled “On Vices and Virtues” Aristotle further defines Hubris as a special case of injustice, which is based on a pleasure a man gains by humiliating the others.”(Aristotle, 1938, 499). It is unjust to aggrandize oneself by humiliating others. This is also the case of the violation of the necessary proportion, here it is self-esteem, which suffers, not the wellbeing of a person. As a case of the contemporary hubris one may point out the demonstrative opulence of the nouveaux riches, outlandish commercials on the background of general poverty and decline – all that should be regarded as hubris. In ancient Greece the actions of hubris were regarded as criminal offence. (FISHER, N. 1992). The disproportional retribution may be of two kinds: excess and deficiency. The median between the two is the rightful or just retribution.

### **Distributive justice**

Distributive justice is attributed to the necessity of distributing certain goods. Both may be distributed on equal or unequal terms. In the case of inequality there must be some criterion, or norm of distribution, be it merit or need. Any society distributes some benefits and burdens among its

members. The goods and burdens under distribution may be money and commodities, praise, power, free time, leisure, respect, office, hard work, etc.

Aristotle paid a significant regard to just distribution: “It is evident that the allocator of the larger share does in fact do an unjust action but that the person who has the larger share does not always do one. For it is not the person to whom the unjust share belongs who does the unjust action but the one who voluntarily does the unjust action, namely, the one from whom, as the starting-point of the action, it derives, and the starting-point is in the allocator, not in the recipient.” (EN, 1136b, 26 – 29). Distributive justice as a personal virtue has the following implication: “Also, justice is the state in accord with which a just person is said to do in action what is just and to do so in accord with his deliberate choice; and to allocate things – whether to himself and another or to two other people – not in such a way that too much of what is choice worthy goes to himself and too little to his neighbor; and the reverse with what is harmful, but rather the proportionately equal amount to both – and similarly where the allocation is to two other people.” (EN, 1134a, 1 – 4).

Distributive justice presupposes certain proportion and may be based on either equality or inequality. It would be unjust to distribute the humanitarian aid equally, if the size of families is different. Distributive justice may be based on equality. It would be unjust to pay unequally, if the participants made the equal contribution to the common deed. It would be unjust to commend all the warriors equally, if some of them flew from the battle field. Aristotelian notion «Paranomos» (violation of law) means the violation of the distributive injustice. Injustice in this case means also the violation of right, because by despising the brave and commending the coward after the battle we violate the right of the brave for just commendation, which he deserves. The same with the distribution of the positions of authority: if the office gets the one who does not deserve it, it means that the right of the one who deserves is violated. This vice is most common for those, who are supposed to distribute anything as a part of their official duties. It does not necessary presupposes that the distributor gets something as a personal gain; it may not be related to personal unfairness or corruption. The violation of right related to distribution may take two opposite forms: the excessive equality, or the

excessive inequality. For example, the equal amount of food supply in time of troubles for different families, if the number of children in the families is different, or the promotion to the position of authority the one, who is incapable to run the office, or less capable in comparison with the others, all that may be regarded as injustice.

### **Commutative justice<sup>6</sup>**

One more branch of particular justice – commutative justice (justice of exchange). We do not find this type of particular justice in Aristotle's writings and even the name for this type is given by others, not by Aristotle himself, but the relations of exchange were taken into account by Aristotle and thoroughly characterized from the point of view of justice. This kind of particular justice is also based on certain norms. First and foremost commutative justice corresponds to the relations of exchange. This is not only the commodity exchange. The exchange is possible in many spheres and walks of life. For example, exchange of support and service, mutual respect and trust constitutes the very foundations of our common everyday life. The classical example here is the market, with its formula: commodity-money-commodity. Any exchange, whatever the exchanged good may be either just or unjust.

This kind of justice may also be equal or unequal, or it may be based on geometrical or arithmetical proportion. Equal commutative justice is widely applicable in the market and economy in more general terms. Aristotle writes: “Reciprocity will exist, then, when equalization has taken place, with the result that just as farmer is to shoemaker, so a farmer's work is to a shoemaker's.” (EN, 1133a, 32–35). But the exchange

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<sup>6</sup> Unlike Distributive and Retributive justice, the commutative justice is not to be found as a special branch of particular justice in Aristotelian writings. But Aristotle gives very detailed qualification to of the forms of justice and injustice related to exchange. It may be that Aristotle simply could not appreciate the institutional importance of such relations, but understood their importance at the level of individual relations. Commutative justice became extremely important later with the growth of economy in the 17<sup>th</sup> century. At that time the systematic exchange of commodities and services became an important institution no less important than the institute of legal retribution or social support.

may be also based on proportional inequality, if it presupposes the relations of unequals. More than that, proportional equality is rather rare in comparison to the proportional inequality. “In communities based on exchange, however, what binds the parties together is what is just in this way, namely, reciprocity that is proportionate and not equal.” (EN, 1132b, 32). The exchange, which is taking place between master and slave cannot be regarded as equal but can be proportionally unequal. The master is supposed to protect and take care of the slave, the slave is supposed to work honestly. This kind of exchange has little to do with equality, but it may be reasonably just. This kind of exchange is taking place in the sphere of “domestic justice”. The relations of husband and wife are also based on unequal but proportional justice of exchange. “Moreover, the relation of male to female is that of natural superior to natural inferior, and that of ruler to ruled.” (Pol., 1254b, 13–15)<sup>7</sup> The husband provides security and wellbeing, the wife – care and comfort. The exchange may be proportionally unequal, taking into account age, merit and status of the participants. One of the examples of the unequal proportional exchange may be the exchange between parents and children, when parents are taking care of their children and the children are paying back by respect.

Commutative injustice Aristotle classified as involuntary exchange. This kind of exchange “...of the involuntary ones, some are clandestine (for example, theft, adultery, poisoning, pimping, enticing away slaves, murder by treachery, and betrayal), whereas others involve force (for example, assault, imprisonment, murder, abduction, disabling, verbal abuse, and insulting treatment).” (EN, 1131a, 5–8). Aristotle also detested usury as it violates the natural mode of exchange and is based not on natural aspirations but on greed. Usury should be regarded as injustice, as an example of voluntary, but not mutually beneficial exchange. “Hence usury is very justifiably detested, since it gets wealth from money itself, rather than from the very thing money was devised to facilitate. For money was introduced to facilitate exchange, but interest makes money itself grow bigger.” (Pol., 1258b, 2–5). The most general formula of justice in the case of exchange is not only voluntariness, but also mutual benefit. It

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<sup>7</sup> Pol., 1254b, 13–15.

makes possible to consider the just price or unjust action of waving the obligations voluntary taken or what is called free ridership, or parasitism.

Pleonexia (greed) takes place in the exchange, when we tend to grasp more than we are supposed to have and do not fulfil the obligations or when we get anything, without the necessary contribution and thus violate the required proportion in our relations with other people. Pleonexia is the possible excess, which exists alongside the other extreme – deficiency, which is a vice of injustice to yourself (meionexia). Justice of exchange is exactly the harmony, or the mean between pleonexia and meionexia. This is the case when we do not take anything from the others and do not allow to take anything unrightfully from us. This kind of justice also has the social dimension, if the society takes pains to eliminate fraud and violence or attaches to certain private relations some social meaning. For example, slavery seized to exist as a private matter only. It was brought to light of public domain and was declared illegal.

### **Equal and Unequal Justice**

The distinction between these types of justice was considered by Aristotle, who used different names for one and the same thing. For example, he writes about geometrical and arithmetical equality as the types of just proportionality. Geometrical equality means the usage of equal criteria for unequal people. As a result we have a possibility to reward according to merit although unequally. Arithmetical equality, on the contrary, means the usage of equal criteria, which ignores the factual inequality, which always takes place in the market or in the court of justice. In some other place in Nicomachean Ethics Aristotle uses the term “equality” to designate arithmetical equality and proportional inequality to designate geometrical equality. At some other point he mentions the distinction of the equality by quantity and equality by merit ( Pol., 1301b, 29). But different wordings do not make much difference. Aristotle holds that particular justice of all stripes may exist only as just equality or just inequality. This allows him to coin one more important definition of justice, which is still widely used in the contemporary theories of justice: “For example, justice seems to be equality, and it is, but not for everyone, only for equals. Justice also seems to be inequality, since indeed it is, but not for everyone, only for unequals.” (Pol., 1280a, 12–14). So we may



claim that formally the establishment of justice is nothing else but the introduction of the due equality or the due inequality. The only problem is to define this very equality and inequality.

As we have already mentioned all the three versions of the particular justice may be based on geometrical equality as well as on arithmetical equality. Distribution according to merit is also equality, but geometrical equality, people are regarded as equal, it is only their merit, which is unequal. In the case of arithmetical equality, like in private exchange, they are equal arithmetically, their merit is not relevant. Equal justice may take place in all possible relations, be it distribution, retribution or exchange, if it is based on simple factual equality. We can distribute equally, we can exchange equally, we can retribute on equal terms. Unequal justice takes place each time we do all that unequally, but on a certain criterion, proportionally. Unequal justice takes place each time in exchange, if we use some unequal proportion of exchange. Unequal retributive justice may take place if the retribution is not really equal to what has been given, but takes into consideration some other circumstances and peculiarities (the level of social necessity or special status or something like that).

Although somewhat different, the types of justice are internally related and belong to the system of norms of justice in the broader sense of the term, what has been called by John Rawls a “real justice”. Each distribution presupposes exchange, exchange is based on mutual retribution. If the society distributes limited resources, it usually does it in terms of certain exchange. Higher salaries, subsidies and so long and so forth are supposed to go to those who retribute to the society with some goods. While punishing the criminal, the society not only retributes him for the wrongs done, but also upholds a system of distribution of punishment, which, at the same time reminds a certain exchange between the society and the wrongdoer: do this and you get this. The relations of distribution, exchange and retribution exist on all the possible levels of social life: lovers, family, social group, political society or humanity as a whole. Political and moral philosophy is mostly concerned with the problems of justice in a political society. Political society presupposes the existence of a system of just norms, valid for a certain territory. We may also distinguish

justice of different levels of social life. Aristotle distinguishes political, domestic and civic justice, which are founded on different norms. Taking all mentioned above into account the final classification of the types of particular justice can be demonstrated in the table.

	<i>Unequal (geometrical equality)</i>	<i>Equal (arithmetical equality)</i>
<i>Distributive</i>	Distribution on certain criterion (example: «to each according to merit»)	Equal distribution
<i>Commutative</i>	Unequal proportional exchange (example: exchange between master and slave)	Equal exchange (equal exchange of commodities)
<i>Retributive</i>	Unequal proportional retribution (punishment proportional to the social danger of the action, not the harm caused)	Equal retribution (teeth for a teeth, eye for an eye)

Being interpreted in this way, Aristotelian conception of justice gains a new power of analysis of the complicated problems of justice of today or regains the old one.

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