



# “ JUSTICE ”

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Section - A

ISLAMIYAT ASSIGNMENT

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# JUSTICE

## INTRODUCTION

- The quality of being just, like righteousness, equitableness, and moral rightness.
- Rightfulness or Lawfulness, as of a claim, justness of ground.
- The moral principle determining just conduct.
- Conformity to this principle, as manifested in conduct like in dealing and treatment.
- The administering of deserved punishment or reward.

Justice, in its broadest sense is the principle that people receive that which they deserve; with the interpretation of what then constitutes "deserving" being impacted upon by numerous fields, with many differing viewpoints and perspectives, including the concepts of moral correctness based on ethics, rationality, law, religion, equity and fairness.

### ➤ In Islam

Originally the Concept of Justice within the Qur'an was a broad term that applied to the individual. Over time, Islamic thinkers thought to unify political, legal and social justice which made Justice a major interpretive theme within the Qur'an. Justice can be seen as the exercise of reason and free will or the practice of judgment and responsibility. The practices and exercises were guided by two Islamic words: rights or obligations one owes and generosity beyond obligation. These words created a guideline for Muslims to abide by.

### ➤ In Western Countries

Western Theories of Justice. Justice is one of the most important moral and political concepts. The word comes from the Latin jus, meaning right or law. Aristotle says justice consists in what is lawful and fair, with fairness involving equitable distributions and the correction of what is inequitable.

### ➤ In Hinduism

It is important to note that Law does not always concur with morality. In Hinduism the notion of Justice is complex as there is never one size that fits all. Among the many meanings of Dharma is both law and morality. What is legal/moral for one person based on caste or profession may not be so for another. It was illegal for a Brahmin to even smell alcohol and the drinking thereof was punishable by the courts. Whereas Sudras could freely imbibe to their hearts content.

## TYPES OF JUSTICE

There are four types of justice

### **Distributive Justice**

Distributive justice, also known as economic justice, is about fairness in what people receive, from goods to attention. Its roots are in social order and it is at the roots of socialism, where equality is a fundamental principle.

If people do not think that they are getting their fair share of something, they will seek first to gain what they believe they deserve. They may well also seek other forms of justice.

### **Procedural Justice**

The principle of fairness is also found in the idea of fair play (as opposed to the fair share of distributive justice).

If people believe that a fair process was used in deciding what it to be distributed, then they may well accept an imbalance in what they receive in comparison to others. If they see both procedural and distributive injustice, they will likely seek restorative and/or retributive justice.

### **Restorative Justice**

The first thing that the betrayed person may seek from the betrayer is some form of restitution, putting things back as they should be.

The simplest form of restitution is a straightforward apology. Restoration means putting things back as they were, so it may include some act of contrition to demonstrate one is truly sorry. This may include action and even extra payment to the offended party. Restorative justice is also known as corrective justice.

### **Retributive Justice**

Retributive justice works on the principle of punishment, although what constitutes fair and proportional punishment is widely debated. While the intent may be to dissuade the perpetrator or others from future wrong-doing, the re-offending rate of many criminals indicates the limited success of this approach.

Punishment in practice is more about the satisfaction of victims and those who care about them. This strays into the realm of revenge, which can be many times more severe than reparation as the hurt party seeks to make the other person suffer in return. In such cases 'justice' is typically defined emotionally rather than with intent for fairness or prevention.

## WESTERN THEORIES OF JUSTICE

Justice is one of the most important moral and political concepts. The word comes from the Latin *jus*, meaning right or law. The Oxford English Dictionary defines the “just” person as one who typically “does what is morally right” and is disposed to “giving everyone his or her due,” offering the word “fair” as a synonym. But philosophers want to get beyond etymology and dictionary definitions to consider, for example, the nature of justice as both a moral virtue of character and a desirable quality of political society, as well as how it applies to ethical and social decision-making. This article will focus on Western philosophical conceptions of justice. These will be the greatest theories of ancient Greece (those of Plato and Aristotle) and of medieval Christianity (Augustine and Aquinas), two early modern ones (Hobbes and Hume), two from more recent modern times (Kant and Mill), and some contemporary ones (Rawls and several successors). Typically, the article considers not only their theories of justice but also how philosophers apply their own theories to controversial social issues—for example, to civil disobedience, punishment, equal opportunity for women, slavery, war, property rights, and international relations.

Western philosophers generally regard justice as the most fundamental of all virtues for ordering interpersonal relations and establishing and maintaining a stable political society. By tracking the historical interplay of these theories, what will be advocated is a developing understanding of justice in terms of respecting persons as free, rational agents. One may disagree about the nature, basis, and legitimate application of justice, but this is its core.

### Plato

Plato’s masterful *Republic* (to which we have already referred) is most obviously a careful analysis of justice, although the book is far more wide-ranging than that would suggest. Socrates, Plato’s teacher and primary spokesman in the dialogue, gets critically involved in a discussion of that very issue with three interlocutors early on. Socrates provokes Cephalus to say something which he spins into the view that justice simply boils down to always telling the truth and repaying one’s debts.

### Aristotle

After working with Plato at his Academy for a couple of decades, Aristotle was understandably most influenced by his teacher, also adopting, for example, a virtue theory of ethics. Yet part of Aristotle’s greatness stems from his capacity for critical appropriation, and he became arguably Plato’s most able critic as well as his most famous follower in wanting to develop a credible alternative to Sophism. Book V of his great *Nicomachean Ethics* deals in considerable depth with the moral and political virtue of justice. It begins vacuously enough with the circular claim that it is the condition that renders us just agents inclined to desire and practice justice.

## JUSTICE IN ISLAM

Allah created man to be His servant and to implement His Way on earth. If humans distance themselves from this message, then they distance themselves from God's injunctions. That is why Islam has prepared its followers to follow this righteous instinct; it is a joy to our spirit to stand and think of the greatness of Islamic justice, how fair Islamic law is to individuals and groups, rulers and the ruled!

### Story of Ali ibn Abu Talib

Ali ibn Abu Talib, may Allah be pleased with him, lost a shield that was dear to him and later found it in the hands of a non-Muslim citizen who was selling it in one of Koofah's markets. When he saw it, 'Ali, may Allah be pleased with him, said: "This is my shield that fell off my camel on so and so night at such and such time." The man answered: "No, this is my shield in my hand." 'Ali, may Allah be pleased with him, replied: "No, it is mine since I never sold it or gave it to anyone." The man agreed to let a judge decide, which 'Ali, may Allah be pleased with him, accepted. They went to Shurayh who asked 'Ali, may Allah be pleased with him, for his side of the story. 'Ali, may Allah be pleased with him, said that the shield was his and that he had found it with that man; it had fallen off his camel and he had never sold it or given it to anyone. The judge turned to the other man asking his story. The man said that he did not accuse 'Ali, may Allah be pleased with him, of lying, but the shield was his, as it was in his hands.

Shurayh turned to 'Ali, may Allah be pleased with him, saying: "I believe you, but we need the testimony of two witnesses to back your story." 'Ali, may Allah be pleased with him, said that there was his aide Qanbar and his son Al-Hassan, may Allah be pleased with him, to which the man replied that a son could not testify for the benefit of his father. Ali, may Allah be pleased with him, said: "O Allah, a man who is promised paradise cannot act as a witness! Have you not heard what the Prophet, may Allah be pleased with him, said that Al-Hassan and Al-Hussayn, may Allah be pleased with them, were the masters of the youths of paradise? Shurayh said: "Yes, I have, but a son cannot bear witness for his father. "Then 'Ali turned to the man and said: "Take the shield, as I have no other witnesses."

The man, who was a non-Muslim, then said: "O 'Ali, the shield is yours. What a great religion! I can sue 'Ali and get a judge to pass a decision for my benefit! I declare myself a Muslim." He told the judge that he was following the army and had seen the shield fall down and picked it up. 'Ali, may Allah be pleased with him, then told him to keep the shield, and on top of that, he also gave him a horse. Soon after, the man was seen under Ali's leadership fighting the Khawaarij [Kharijites –are one of the deviant sects, who follow their whims and desires and innovation, and deviated from the path of Ahlus-Sunnah wa'l-Jamaa'ah].

**JUSTICE OF Umar (radhiAllahu ‘anhu)****STORY # 1**

People came from faraway lands to seek the justice of ‘Umar (radhiAllahu anhu). Ibn Abd Al-Hakim reported: Anas, May Allah be pleased with him, said that a man from the people of Egypt came to ‘Umar ibn Al-Khattab and said, “O leader of the believers, I seek refuge in you from injustice!” ‘Umar replied, “You have sought someone willing.” The man said, “I competed with the son of Amr ibn Al-‘As and I won, but he started striking me with a whip and saying: I am the son of the dignified!” Upon this, ‘Umar wrote to Amr ordering him to travel to him with his son. He came with his son and ‘Umar said, “Where is the Egyptian?” He gave him the whip and told him to strike the son of Amr. The man started striking him while ‘Umar was saying, “Strike the son of the illiterates!” Anas said, “By Allah, the man struck him and we loved his striking, and he did not stop until we wished he stopped.” Then ‘Umar said to the Egyptian, “Direct it to Amr.” The Egyptian said, “O leader of the believers, it was only his son who struck me and I have settled the score.” ‘Umar said to Amr, “Since when did you enslave the people though they were born from their mothers in freedom?” Amr said, “O leader of the believers, I did not know about this and he did not tell me.”

**STORY # 2**

Abu Ubaidah (radhiAllahu anhu), the commander in chief of the Muslim army and himself a very pious man, suggested that he change his clothes so that the people of Jerusalem, accustomed to the pomp and grandeur of kings and emperors, were not dissuaded from handing the keys of Jerusalem over to him. ‘Umar (radhiAllahu anhu) hit him hard on the chest and reminded him that they had been a disgraced nation. What had brought them honour and elevated them was Islam; should they seek honor from anything else, they would surely be humiliated again. “The only way for success is the way of the Holy Prophet” he said. When the people of Jerusalem saw ‘Umar’s simplicity they started crying. Such was his sense of justice; He would sleep beneath a tree peacefully unguarded and it was only this quality which enabled him to do so.

**STORY # 3**

In the year of Ar ramadah 18th year after hijrah, the year the Muslims were hit by famine, 60,000 refugees came to Medina and ‘Umar (radhiAllahu anhu) would himself carry oil and food to the people and whenever he would see that the people were deprived of something he would deprive himself of that as well, if they didn’t have meat he would deprive himself from meat if they didn’t have oil he would deprive himself from oil to the extent that the Sahaba feared he would die. He would say, “How can I be a shepherd when I am not struck with what my flock is struck with.”

## IMPROVEMENT OF JUSTICE

### Evidence from the Qur`an

God the Almighty says, "He hath explained to you in detail what is forbidden to you - except under compulsion of necessity" (6:119), and "But if one is forced by necessity, without willful disobedience, nor transgressing due limits, - then is he guiltless"

### The right to pardon

A victim is entitled to pardon the culprit before referring the matter to the courts. However, by resorting to the court, the culprit's punishment becomes a social right, effectively preventing the victim from waiving his own right

### Evidence from the sunnah

It was narrated on the authority of Safwan Ibn Umayyah that he said, "I was sleeping in the mosque on my cloak when a thief came and snatched it from under my head. I woke up and shouted after him. The man was seized and brought before the Messenger of God (peace and blessings be upon him) who ordered that his hand be cut off. I approached the Messenger (peace and blessings be upon him) and said, 'Will his hand be severed for only thirty dirhams? I will sell him the cloak for deferred payment.' He replied, 'Why did you not do so before bringing him to me'

### Litigation law established by the Prophet (PBUH)

The need for strong proof to establish the truthfulness of the claimant.

The Prophet (peace and blessings be upon him) said, "If people were given what they lay claim to, they would take the blood and property of others. But the onus of the proof is on the claimant and the taking of an oath is upon the one who denies the allegation"

### The judge and the judiciary in Islamic legislation

A judge is the person tasked with achieving the supremacy of law and legislations which govern the lives of people. He is granted the wisdom to adjudicate and teach the people.



## Conclusion

The conclusion on this topic is that Without Justice the country is destroyed. Without justice the world is like jungle, as we see our country Pakistan unwillingly saying, the Justice does not exist. We are following the deen that is Islam which force on the justice and deny for injustice but as a Muslim we are not following the path of right and not obeying the commands of Allah and your Holy Prophet Muhammad (PBUH).

The term 'access to justice' means different things to different people. For some, the subject centralizes the issue of overcoming the procedural barriers within the court system itself. Such an approach tends to concentrate on issues of overcoming delays within the court process, efficiency, formality and cost of proceedings, and the organization, structure and administration of courts and tribunals.

The Access to Justice and Legal Needs project intends to cover these various issues, many of which raise complex and difficult questions. The Foundation acknowledges that this is a challenging and ambitious project. However, the importance of undertaking such a project using innovative and empirically reliable processes cannot be understated. We hope that the project will contribute significant input into the policies and practices of government, non-government and other interested agencies helping to improve access to justice for the people of New South Wales.

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