

Justice Reading

Comments on Aristotle, 1999

Justice as a Mean

- At the end of V.5, Aristotle writes that doing justice is intermediate between inflicting injustice and suffering injustice. But this seems entirely unreasonable. To do justice and to inflict injustice are both actions, but a person who suffers injustice is not as such doing any action. It makes no sense to describe an action as intermediate between some other action and being victimised in some way. Acting justly is apparently not intermediate between victimising others and being a victim of others. What is intermediate between those extremes, if anything, would seem to be a sort of neutrality, i.e. neither inflicting nor suffering injustice, analogous to whatever is intermediate between eating and being eaten.
- So we should think that Aristotle is speaking loosely here. On a more charitable interpretation, Aristotle's precise view is that one acts justly when one aims at and has no more and no less than one deserves. So Aristotle writes that doing justice is intermediate between inflicting injustice and suffering injustice because inflicting injustice is ordinarily or generally how one comes to have more than one deserves, and suffering injustice is ordinarily or generally how one comes to have less than one deserves.
- This interpretation is unattractive because Aristotle apparently thinks that each virtue has its own domain of action. This is the "doctrine of disjoint spheres". So, for example, the virtue of truthfulness is silent on promise-keeping, because promise-keeping belongs in the domain of justice. Promise-keeping is just but not truthful (neither is it untruthful). On the above interpretation, Aristotle's account of particularly just action is action that yields to the agent exactly what he deserves. Then, a soldier's abandoning his post out of fear is both cowardly and unjust. But this seems to violate the doctrine of disjoint spheres.
- One response to the above notes that "for Aristotle, an action is always a behaviour-under-a-description. The same behaviour [...] may have several different descriptions, and therefore have several different actions. Each action may exhibit a different vice, so the same behaviour may exhibit different vices under different descriptions."
- In V.1, Aristotle suggests that we identify particularly unjust action by its being motivated by "overreaching" (pleonexia), which means something like a desire for divisible goods not qua good but qua more than one's fair share. Aristotle also writes that particular injustice is motivated by a desire for profit, which is to receive more than one's fair share. This suggests an interpretation under which justice is a mean between pleonexia and meionexia (a desire for less than one's fair share, i.e. for loss). So justice is a desire for exactly one's fair share.
- This interpretation is unattractive because agents can apparently act unfairly without acting from either of these motivations. When an agent distributes some good disproportionately out of malice, we think he acts (particularly) unjustly.
- This interpretation is unattractive also because justice is relevant even where one is not a potential recipient, and hence could not receive more or less than his fair share of divisible goods. The judge who fails to appropriately rectify an unfair transaction because, for example, he neglects to understand the facts of the case, we think, acts unjustly, even where the judge is not party to the transaction.
- Aristotle's response to this latter difficulty is a "desperate device" at 1137a1. Here, Aristotle writes that the unjust distributor is pleonectic in desiring more than his fair share of gratitude or revenge.
- This response is unsuccessful because the unjust distributor does not typically, let alone necessarily, desire more than his fair share of gratitude or revenge (and may simply be negligent).
- Aristotle tells us that "justice is a mean, not as the other virtues are", perhaps then, we should not attempt to afford justice similar treatment to the other virtues, and we should not consider an action's issuing from pleonexia or meionexia as necessary for that action's being unjust.

Justice in Distribution

- Bostock thinks that the main criticism of Aristotle's account of justice in distribution is that the problem of justly distributing is more complex than Aristotle seems to think. Aristotle suggests that there are different criterion of relative worth but does not tell us which is appropriate (under what circumstances), so Aristotle seems to think this is obvious. But it evidently is not clear which criterion of relative worth are appropriate and how they should be jointly applied if multiple are appropriate.
- Another criticism is that some disproportionate distributions are apparently fair because they are the result of some fair procedure. For example, the result of a lottery is fair in this way.

Justice in Rectification

- What is puzzling about Aristotle's account here is that it is not clear what requires rectification in voluntary transactions. This puzzle is solved by interpreting Aristotle here as having in mind voluntary transactions where at some later point one party has reneged on a commitment.
- Another puzzle about Aristotle's account here is that there is no element of punishment in this account, the offending party is simply restored to his state prior to the offence. But we think punishment is an important part of justice. One response is the thought that we are punished not for offences against others as such, but for offences against the law, so leaving punishment out of the account of justice in rectification is reasonable.

Condensed Notes on Aristotle, 1999

Aristotle (1999) *Nicomachean Ethics*. Translated by T. H. Irwin. Cambridge, MA: Hackett Publishing

- V.1 Varieties of Justice
 - Justice and injustice are typically spoken of in two ways, but this is not noticed because the difference in the two ways of speaking is small. Injustice, in one sense, is about "lawfulness" and in another sense is about "unfairness". The latter sort of injustice is concerned with the goods of fortune.
 - Action in accord with the law (in accord with good laws) promotes the flourishing of the community. The law (good laws) require virtue and prohibit vice. So justice in the latter sense is complete interpersonal virtue. This explains the common beliefs.
- V.2 Special Justice Contrasted with General
 - Aristotle continues to defend and clarify the distinction between universal and particular justice.
- V.3 Justice in Distribution
 - A just distribution distributes a divisible good in proportion to the relative worth of the recipients. It is intermediate between "too much" and "too little"
- V.4 Justice in Rectification
 - A just rectification (of an involuntary transaction) restores both parties to their initial conditions. It is intermediate between "profit" and "loss", and is independent of the relative worth of the relevant parties.
- V.5 Justice in Exchange
 - Simple reciprocity in the sense of "an eye for an eye" does not fit justice in distribution or justice in rectification. Proportionate rather than simple reciprocity is appropriate for justice in exchange.
 - Aristotle offers the following four strategies for situating justice in a mean.
 - Doing justice is intermediate between doing injustice and suffering injustice because doing injustice is having too much and suffering injustice is having too little.
 - Justice is the condition that is intermediate between some person's having more than is proportionate to his relative worth, and his having less.
 - Justice is the condition that is intermediate between profit and loss. In contrast, for the other virtues, it is the state of the person that is in some intermediate condition, not the corresponding activity.
 - The most plausible strategy comes at the end. Justice is the virtue in accord with which the just person distributes, rectifies, and exchanges justly. Injustice is some excess and/or deficiency in the sense that it is the vice in virtue of which the unjust person distributes, rectifies, and exchanges, in a way that yields some excess and/or deficiency.
- V.6 Political Justice
- V.7 Justice by Nature and by Law
- V.8 Justice, Injustice, and the Voluntary
- V.9 Puzzles about Justice and Injustice
- V.10 Decency
- V.11 Injustice to Oneself

Aristotle, 1999

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- V.1 Varieties of Justice
 - §1 Aristotle plans to discuss (1) the sorts of actions that the virtues of justice and injustice are concerned with, (2a) in what sense justice is a mean, as the other virtues are, (2b) what two opposed vices is justice bracketed by. §3 It is apparent that the virtue of justice is that state of one's character that disposes one to do just acts and desire what is just. (This is almost entirely trivial and uninformative.) Similarly for injustice. These are the common beliefs Aristotle begins from.

- §6 Justice and injustice are spoken of in different ways. §7 This difference is not usually noticed because it is small. §8 Both (1) the lawless and (2) the overreaching and unfair person are described as unjust. So both (1) the lawful and (2) the fair person are just.
- §9 The person who is unjust in the latter sense is characteristically concerned with the goods of fortune. These goods are also unqualified goods, like wealth, for which it is appropriate to think "wealth is good for human beings" without qualification, although wealth is, under some circumstances, and for some persons bad (so bad with qualification).
- §10 The person who is unjust in this sense aims for more (presumably, than is appropriate or right) of such goods.
- §12 "Lawful", when used to characterise one sense of justice, means in accord with correct laws, rather than in accord with the standing system of law that legislators have produced. §13 The correct or proper laws aim at the common benefit of all members of a society, or at the benefit of the aristocrats, whose position is grounded in their virtue. So just action is in accord with such law and is action that is conducive to the flourishing of a political community. §14 The law (in the normative sense) will demand virtuous action and prohibit vicious action. §15 So justice in this sense is complete interpersonal virtue. This explains the apparent importance of justice relative to the other virtues. §16 This also explains the common belief that "ruling will reveal the man (who rules)", because a ruler is necessarily and thoroughly related to others, so his interpersonal virtues will necessarily be thoroughly evident. §17 This also explains why justice appears to be the good of others, because justice requires or promotes action that is for the good of others. §19 This sort of justice is not simply an element of virtue (as, for example, courage is), but one aspect (the interpersonal one) of complete virtue.
- V.2 Special Justice Contrasted with General
 - §1 Aristotle earlier has claimed that there are two sorts of justice, the special (particular) type that is to do with overreaching and unfairness, and the general (universal) type that is to do with lawfulness. §2 There is reason to think such a distinction exists. A person acts unjustly if he acts unkindly (and not unfairly or from overreaching), but a person acts unjustly also if he acts unfairly and from overreaching (and not from unkindness or any other vice). §4 What seems characteristic of such unjust action is that it aims at some (unjust) gain. §5 Action that is unjust in the broader sense can (always, necessarily) be attributed to some specific vice, but action that is unjust in the narrow sense cannot (necessarily) be attributed to any specific vice (other than particular injustice).
 - §6 Both sorts of injustice concern interpersonal relations. But particular justice is concerned with such goods as wealth, honour, and safety "and aims at the pleasure that results from making a profit" whereas universal justice is concerned with interpersonal virtue in general.
 - §7-9 Particular justice is an element of universal justice since, Aristotle apparently thinks, such goods as wealth, honour, and safety are zero sum, or otherwise such that their distribution is an interpersonal matter. §10 Universal justice, understood as complete interpersonal virtue is sufficiently clear (from the earlier books). Aristotle intends to focus on particular justice. The law will help distinguish between universal justice and universal injustice, because it prescribes and fosters universal justice. §12 There are two species of particular justice. First, justice in distribution. Second, justice in rectification. §13 Justice in rectification has two subspecies. First, concerned with voluntary transactions. Second, concerned with involuntary transactions.
- V.3 Justice in Distribution
 - §1-3 Justice in distribution is intermediate between two sorts of unfairness, namely too much and too little. §4 Fairness involves a sort of equality or proportionality. §6 If the people involved in some distribution are not equal, the just distribution of goods between them will also not be equal. §7 A just distribution is in accord with the relative worth of the persons between whom goods are distributed, and there is dispute over the relative worth of persons. §8-17 Aristotle discusses this geometrically.
- V.4 Justice in Rectification
 - §1-4 Justice in rectification (i.e. involuntary transactions) differs from justice in distribution in that the latter is concerned with a proportionate distribution of goods, whereas the latter does not consider the "relative worth" of persons involved, and aims simply to restore an initial condition by taking from the offender and returning to the victim. The injustice consists in an inequality between the offender's profit and the victim's loss. Such cases of injustice include theft, assault, and fraud. §6 What is intermediate between profit and loss is the state that is neither profit nor loss, we can call it "indifference". §7 Judges are called upon to restore this equality.
 - §8-12 Aristotle discusses this geometrically.
 - §13 Aristotle clarifies the earlier use of "profit" and "loss", these terms used here are borrowed from the language of voluntary transactions. To profit is to have more than one initially had. To lose is the reverse. §14 Justice in rectification consists in having the equal amount both before and after a transaction.
- V.5 Justice in Exchange
 - §1 It is commonly believed that reciprocity (in the sense of "an eye for an eye") is just. §2-3 Aristotle rejects that reciprocity fits justice in distribution or justice in rectification. §4 Aristotle offers a counterexample. If a ruling official

wounds someone in exercising his office, it would be unjust to wound the ruling official in retaliation. Similarly, if a ruling official is wounded in exercising his office, it would be unjust to simply wound the offending party. Rather, this person should (additionally) "receive corrective treatment". §5 Moreover, whether an act was voluntary or involuntary is clearly relevant in determining the response that would be just, but this is ignored by simple reciprocity.

- §6 But reciprocity is the relevant concept for justice in communities for exchange, though it is proportionate rather than simple reciprocity that is relevant here. Some sort of reciprocity is important because a failure to meet evil with evil shows a slavish lack of concern for one's status and worth, and a failure to meet good with good leaves no room for mutual exchange, which is constitutive of or necessary for community. §9 A community requires members who are dissimilar enough to gain from it. §13 Need holds a community together because persons with no need for each other do not exchange.
- §10-16 Money secures proportionate reciprocity in exchange.
- §17 Aristotle explicitly makes a very controversial claim. Doing justice is intermediate between doing injustice and suffering injustice because doing injustice is having too much and suffering injustice is having too little. Justice is a mean in the sense that it is about intermediate conditions, namely (1) the condition that is intermediate between some person's having more than is proportionate to his relative worth, and his having less, and (2) the condition that is intermediate between profit and loss. In contrast, for the other virtues, it is the state of the person that is in some intermediate condition, not the corresponding activity. Justice is the virtue in accord with which the just person distributes, rectifies, and exchanges justly. §18 Injustice is some excess and/or deficiency in the sense that it is the vice in virtue of which the unjust person distributes, rectifies, and exchanges, in a way that yields some excess and/or deficiency.
- §18 The unjust person awards himself more unqualified goods (the goods of fortune like wealth, honour, and safety) than he deserves.
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