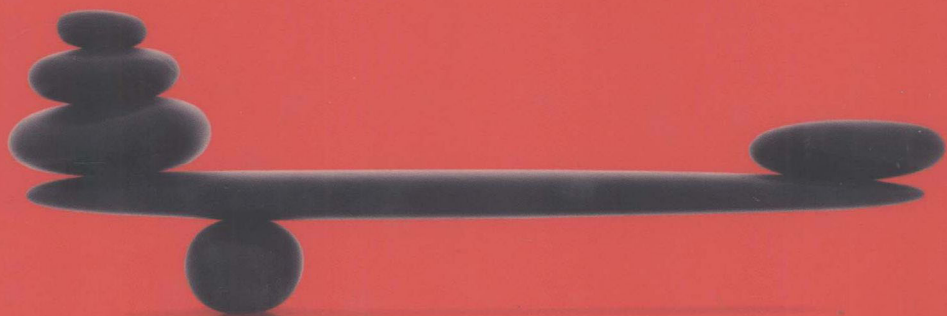




A Brief History of JUSTICE

David Johnston

A BRIEF HISTORY OF JUSTICE

DAVID JOHNSTON



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A Brief History of Justice

Brief Histories of Philosophy

Brief Histories of Philosophy provide both academic and general readers with short, engaging narratives for those concepts that have had a profound effect on philosophical development and human understanding. The word “history” is thus meant in its broadest cultural and social sense. Moreover, although the books are meant to provide a rich sense of historical context, they are also grounded in contemporary issues, as contemporary concern with the subject at hand is what will draw most readers. These books are not merely a tour through the history of ideas, but essays of real intellectual range by scholars of vision and distinction.

Already Published

A Brief History of Happiness by Nicholas P. White

A Brief History of Liberty by David Schmidtz and Jason Brennan

A Brief History of the Soul by Stewart Goetz and Charles Taliaferro

A Brief History of Justice by David Johnston

For

Charles E. Lindblom
Scholar Mentor Friend

and for

the students and staff of
Introduction to Contemporary Civilization

Acknowledgments

This book grew out of a longstanding dissatisfaction with contemporary academic thinking about justice, and especially with the estrangement between that thinking and a sense of justice that has been, and remains, widely shared across many cultures since the earliest times of which we possess written records. In order to pierce the academic bubble within which scholarly conversation about justice has been contained for at least the past several decades, I have immersed myself over the past few years in texts, both celebrated and relatively obscure, in an effort to recapture the various sensibilities that have motivated people's ideas about justice over the centuries. I hope that the results of this effort will cast some light on the idea of justice itself, as well as unearthing evidence for a history of ideas, some of which have long been either forgotten or summarily and unjustifiably dismissed.

This is a concise book, but it covers considerable territory, especially of the chronological sort. In order to make the narrative and arguments as accurate, clear, and incisive as possible for this subject, I have freely sought advice from others, and have accordingly acquired many debts. Danielle Allen, Robert Goodin, Ira Katznelson, Jennifer Pitts, Thomas Pogge, Melissa Schwartzberg, Annie Stilz, Katja Vogt, Jeremy Waldron, Gareth Williams, Jim Zetzel, and the members of the Columbia Seminar on Studies in Political and Social Thought, especially Jerry Schneewind, all have read and made suggestions on

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I have had the privilege for the past eight years of serving as Director and Chair of the Governing Board of the Society of Fellows in the

Humanities at Columbia University. The Society, and the Heyman Center in which it is housed, provided an environment for conceiving and compose this book that has few peers in collegiality and intellectual stimulation. I wish also to thank the numerous students and teaching assistants who have been through the mill of my lecture course on justice since I began teaching it, in the spring of 2001. I would not have been able to write this book if I had not had the opportunity to work through many of the ideas there first, in a rough and tentative way.

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Contents

Acknowledgments	ix
Introduction	1
Prologue: From the Standard Model to a Sense of Justice	7
1 The Terrain of Justice	15
2 Teleology and Tutelage in Plato's <i>Republic</i>	38
3 Aristotle's Theory of Justice	63
4 From Nature to Artifice: Aristotle to Hobbes	89
5 The Emergence of Utility	116
6 Kant's Theory of Justice	142
7 The Idea of Social Justice	167
8 The Theory of Justice as Fairness	196
Epilogue: From Social Justice to Global Justice?	223
Glossary of Names	233
Source Notes	239
Index	257

Introduction

For many years now scholars have consistently mapped virtually all ideas about justice onto one of two continents. According to this cartography, the utilitarian territory is populated by views that stipulate a goal and derive a conception of justice from that goal or objective, usually by specifying a set of principles, rules, and institutions that are expected to be instrumental to its achievement. The most talked about goal in modern times has been the maximization of happiness. This goal is formalized in the principle of utility (or greatest happiness principle), which is the central idea of the classical utilitarian tradition. The label “utilitarian” is applied to this continent in recognition of the recent dominance of this school of thought, but this land is also inhabited by a number of other schools, devoted to variations on this theme or to objectives that are altogether distinct from it.

The “deontological” continent (in the jargon of modern moral philosophy) is the only other recognized territory. The class of deontological views is united by the conviction that justice is a matter of strict duties that cannot be overridden by any other considerations, not even for the purpose of achieving highly desirable goals. The rudimentary thought out of which this set of views springs is that some things are *right* whether or not they are *good*.

Although the principal views recognized by this division have relatively long pedigrees, the notion that all significant ideas about justice can be represented as incarnations of one of these two types goes back no further than the late eighteenth century, when the two principal traditions of modern moral philosophy – the utilitarian and the Kantian schools – acquired the distinctive identities they have maintained with considerable continuity since that formative period.

This representation of the geography of ideas about justice is neglectful of, or even oblivious to, the preceding 4,000 years of thinking about the subject. It is in fact astonishingly ahistorical. What is even more troubling, this mapping withholds recognition from a set of ideas and intuitions about justice that have been shared widely by many people who are not professional intellectuals (as well as by some who are) throughout recorded history and across innumerable cultures. An entire continent is missing from the geography of ideas about justice that is commonly transmitted and received through the modern community of scholars.

My main aim in this work is to offer a concise and accurate map of the principal ideas about justice that have seized the imaginations of people in the “western” world over the course of its recorded history. The oldest and probably most widely endorsed understanding of justice focuses neither on an overarching goal from which the principles and rules of justice are allegedly to be derived, nor on a conception of the right and a set of unyielding duties that flow from it – but on the characteristics of relations among persons. This understanding is rooted in the concept of reciprocity, a concept which is malleable enough to have been shaped and embellished over the centuries into a considerable range of elaborated conceptions of justice, but which retains a core meaning that ties together all those conceptions as members of a single extended family of ideas.

I hope, further, to give the reader some reasons to believe that a conception of justice focused on the character of relations among persons rather than on a single pre-eminent goal or on a set of strict duties is worthy of being revived as an estimable alternative to the two

approaches that, taken together, have dominated scholarly discussions about justice for the past several generations. I do not mean to suggest that the particular conceptions of justice as reciprocity that have played the most prominent role in the history of ideas before our era can, without alteration, serve as reliable guides to puzzles about justice in the world today. These conceptions must be revised if they are to make a constructive contribution to the thoughts and actions that will shape our futures. Yet, in order to reconstruct a conception of justice focused on the character of relations among persons that could play a significant role in shaping our ideas, we must first recover some of the intellectual materials out of which earlier conceptions were fashioned, scrutinizing their strengths and weaknesses in the hope that we will be able to fashion ideas about justice that will serve us well. In this sense, the present book is an essay in retrieval as well as a survey of the past.

In the course of this study we shall see that, for the first 1,500 years or more of recorded history, human beings' ideas about justice were based heavily on the concept of reciprocity – an understanding that Plato attacked and attempted to replace with a new, teleological (that is, goal-directed) conception of justice. From Plato's time onward, the history of ideas about justice has been marked by a persistent tension between reciprocity-based understandings and teleological theories that have been developed with the aim of overthrowing those understandings. We shall also see that two momentous innovations in thought that first appeared in ancient times, but became ascendant only in the modern era, have, over the last few centuries, transformed the landscape of ideas about justice decisively. These innovations are the notion that human beings are capable of reshaping their social worlds so as to make them accord with their intentional designs – a notion that seems first to have appeared among the sophists of Athens in the fifth century BCE – and the idea that all human beings are equal in worth, which originated in the Stoic tradition of ancient philosophy and was disseminated very gradually, primarily through the efforts of the Christian movement. We shall also have occasion to notice that

these two innovations, taken together with the insight that virtually all the wealth generated in modern societies is a social product rather than merely an aggregation of the products of individuals taken singly (an insight that is identified most closely with Adam Smith), led to the formulation of the modern idea of social justice. This idea has played an outsized role in thinking about justice for some two centuries.

No one is more aware than I am of the limitations of this study. I say little here about strictly legal justice, which is the most obvious form in which people usually encounter something resembling justice in the everyday world. My reason for this neglect, aside from constraints of space, is that I am not convinced that a comparison between strictly legal justice and justice is any less unfavorable to the former than the common comparison between military music and music is. It may be that, in the very best conditions, legal justice leads with some consistency to relatively just outcomes, but it has not done so in most legal systems of which we know over the centuries. I also say little about the deep skepticism about justice that can be found in the philosophical tradition, from the voice of Thrasymachus (as represented by Plato in the *Republic*) to the writings of Nietzsche and beyond. While I conceive this study in part as a response to that skepticism, it has seemed to me that the best way to frame that response is to present the positive claims about justice that have been articulated throughout that tradition as perspicuously as I am able to do. The skeptical view is based on a corruption of understanding, which forgets that the idea of justice is a tool that has been invented and refined by human beings, but, like other tools, is not infinitely plastic and cannot be reinvented in any form one happens to like, at least not if we want it to do the kind of work that the idea of justice was brought into being to do. I bestow what some might see as an inordinate amount of space and attention on a handful of “canonical” or “great” thinkers and only a little on the context of their ideas and on the ideas of others, who are considered less eminent in standard recent treatments of the history of political philosophy. I have allocated my attention in this way without misgivings, because I believe the writers

on whom I have chosen to focus articulate the principal modes of thought about justice with at least as much fullness and clarity as could be found in any other selection. I have made no attempt to be evenhanded toward periods in the history of political thought, because I believe that some eras have been far more fecund with regard to ideas about justice than others. Perhaps most problematically, I have confined my attention to “western” ideas (including, however, the thinking of the ancient Babylonians, who borrowed heavily from the Assyrians and Sumerians before them, and that of the ancient Israelites). For this shortcoming my only excuses are the limited word count to which I agreed when I undertook this study, the design of the series to which this book is a contribution, and, most importantly by far, the limitations of my competence.

I hope that, despite its limitations, this study will be considered to be of some interest and use. For, notwithstanding its many omissions, the story it tells will uncover a set of ideas about justice that is as significant as it is neglected – ideas the contemplation of which may enable us in the future to frame issues about justice more constructively than we have been able to do for at least the past two or three generations.

Prologue

From the Standard Model to a Sense of Justice

It is often assumed that people's actions are invariably intended to promote their own interests. This assumption tints our perceptions both of public figures and of our acquaintances in everyday life. When we notice conduct we find hard to explain, we frequently suppose that closer scrutiny would reveal the self-interested motives underpinning that conduct. We take for granted that politicians and celebrities are moved by desire for personal gain in the form of wealth or fame or both, and we regard with suspicion claims that these figures are motivated primarily by an interest in the public good, or by other selfless goals. Philosophers and social scientists have produced many striking statements of the self-interest assumption. In the most celebrated work of political philosophy ever written in English, Thomas Hobbes declared that, "of the voluntary acts of every man, the object is some *Good to himself*." A century and a quarter later, in the book that is widely considered the founding work of the entire tradition of economic science, Adam Smith proclaimed:

It is not from the benevolence of the butcher, the brewer, or the baker, that we expect our dinner, but from their regard to their own interest. We address ourselves, not to their humanity but to their self-

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