Exploring (Social) Justice: A brief Overview

AUTHOR: SIMON ELIAS UNTEREGGER
EDITOR: DR JOHANNES J KNECHT

This article provides a brief overview on the history of theories on justice, mainly in 'western' cultures. Due to the context of writing, it is evident that the article needs to be an abbreviation and cannot comprehensively consider all relevant aspects equally, such as the history of legal systems. The following pages will provide insights in the prevailing theoretical approaches and developments in moral, social, and political philosophy regarding justice and more specifically, social justice. Finally, I would like to provide an outlook on additional topics arising from justice and globalization, as well as theories on justice in feminism, gender studies, and postcolonial studies, before drawing initial conclusions from a Christian perspective.

1. A brief historical overview

Like every year, "Fat Cat Day" was announced on January 8th[1] in Austria. Coined by the British think tank *High Pay Centre,* this term describes the point at which the highest-earning managers in a country have earned the equivalent amount as a person with an average annual salary in this country. And like every year one question emerges in many commentary sections of newsletters: can this be "just"? We will take a closer look at this question by, with Foucault's critique of *The Order of Things* in mind, going on a quick journey through the history of ideas on justice, before asking ourselves how social justice is understood, questioned, and institutionally structured today.

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[1] Calculated over an average of 8 working hours per day, excluding weekends and holidays.

1.1 Epistemes of Justice in Antiquity:

The oldest writings concerning social justice from a political perspective date back to the late third and early second millennia BCE and were produced by ancient Mesopotamian empires such as the Sumerians, Babylonians, and Assyrians.[2] Due to salient similarities between legal texts throughout different Mesopotamian cultures and empires, there is "strong evidence for the existence of a common customary Mesopotamian law [...] that bridged political decisions."[3] (the longest and best preserved of which is the Babylonian law collection *Code of Hammurabi*).[4] Even though the word "justice" (mišaram) is used extensively, Johnston (2011) mentions that the phrase "social justice" would be somewhat anachronistic in this context. The text emphasizes that laws are supposed to prevent the oppression of the disadvantaged by the powerful. However, it presupposes a clear social hierarchy, with different laws applying to people in different social strata.

Here lies, among many similarities between the Babylonian and Jewish texts, one of the distinctions from the legal texts of the Tanakh, which make no such distinctions.[5] One exception exists in laws that exclusively concern slaves, which represents another distinction from the Babylonian texts, which do not provide real regulation in this area. A foundational principle that runs through both Jewish and Mesopotamian, and also Greek and Roman, scriptures is the *lex talionis* (an eye for an eye, a tooth for a tooth), embodying a concept of reciprocity. Johnstone (2011) points out that even within this principle, hierarchical differences are present, emphasizing that reciprocity also presupposes social equality among the involved actors.[6] Further, legal texts have historically been produced by a privileged social class, given that only a smaller portion

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[2] To be read extensively in: Darling, Linda T.: A history of social justice and political power in the Middle East. The circle of justice from Mesopotamia to globalization. London/New York: Routledge. 2013.; Concerning Mesopotamia, see p. 15ff.

[3] Johnston, David: A brief history of justice. Chichester: Wiley-Blackwell. 2011., p. 15

[4] See further: Langdon, S.: „The Sumerian Law Code compared with the Code of Hummurabi" In: Journal of the Royal Asiatic Society. Vol. 52. No. 4. 1920. p. 489–515.

[5] See further: Cook, Stanley A.: The Laws of Moses and the Code of Hummurabi. New York: Cosimo Classics. [1904] 2010.

[6] Therefore, Karl Marx and Friedrich Engels speak of a class struggle throughout history, where we consistently observe classes of oppressors and oppressed and the history of humanity is a sequence of struggles between different classes for general control and for control over the means of production in each society. Marx, Karl; Engels, Friedrich: Manifesto of the Communist Party. New York: International Publishers. 1979.; This theoretical position has been frequently criticized, for instance by Karl Popper. Popper's critique is primarily directed against the idea of historical inevitability inherent in the historical philosophy of Marx and Engels. See: Popper, Karl R.: The Open Society and Its Enemies. New One-Volume Edition. Princeton: Princeton University Press. 2013.; „The future depends on ourselves, and we do not depend on any historical necessity." (p. 3) ⌷

of the population could read and write. The information accessible to us is inherently socially biased, yet it reveals a recognizable social terrain. A social terrain refers to the social order assumed as "normal" by the texts, irrespective of whether this order is just or unjust.[7]

1.2 Plato and Aristotle:

An explicit formulation of social hierarchy structures in relation to a just society can be found in Plato's dialog *Politeia* (written around 375 BCE). However, it remains an open debate whether the dialogue constitutes a purely utopian societal model or embodies the beginnings of an actual political program.[8] In the dialogue, Socrates engages in conversations with various interlocutors, with justice as a central problem being discussed.[9] Throughout the text, Socrates elaborates on thoughts about an ideal state, envisioned to consist of three classes:

- The Guardians, who constitute the intellectual and ruling elite, are philosophically well-educated and, therefore, deemed best suited to govern due to their wisdom, knowledge, and understanding of the good. In this position, they are also permitted to lie to their citizens if it is deemed constructive for the state.
- The Auxiliaries, who are warriors with the primary duty to protect the society from external threats.
- The Producers, which consist of workers, traders, etc. This class represents the majority of the population and is responsible for the economic and material well-being of the society

Socrates asserts in the dialogue that a society is 'just' when all individuals in their respective classes fulfil their roles and do not encroach beyond their class boundaries into tasks that do not belong to their class. The order of society reflects the order within individuals, which is described through three parts of the soul (reason – logos, which represents the philosophical leaders; spirit – thymos, which reflects the class of the guardians and appetite – epithumia, which represents the producers). Like in the state, justice exists as a virtue in an individual when the three parts of the soul are in harmony.

We saw that most ancient epistemes of justice prior to Plato's philosophical approaches were concerned with installing legal systems, which would prevent

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[7] The connection between the Code of Hammurabi and the Old Testament input on Social Justice will be discussed more in the third article.

[8] To be read extensively in: Anagnostopoulos, Georgios; Santas, Gerasimos: Democracy, Justice, and Equality in Ancient Greece. Historical and Philosophical Perspectives. Cham: Springer. 2018.

[9] See: Keyt, David: „Plato on Justice" In: Socratic, Platonic and Aristotelian studies: Essays in honor of Gerasimos Santas. Anagnostopoulos, Georgios (Ed.). Dordrecht: Springer. 2011. p. 255–270.

exploitation of the poor and week, but where nonetheless clear hierarchical structures were retained. Within these structures, the aim was to establish a balanced reciprocity, with provisions that would allow for just reparations in the event of crimes. Justice should be established to organise the daily needs of people and their coexistence.

Plato steps beyond these positions. Like Johnstone (2011) points out: "Plato takes only passing notice of worldly interests. For him, the primary aim of justice is to cultivate the rightly ordered soul, and its secondary objective is to construct and maintain a city that is ordered, so as to cultivate the rightly ordered soul."[10] Plato's ideas may sound somewhat idiosyncratic today or evoke associations with Aldous Huxleys *Brave New World*, especially since Plato also integrated a certain form of eugenics into his model of the state. However, they were highly influential for the subsequent history of ideas. For instance, in his work *The Open Society and Its Enemies*, Karl Popper illustrates how Plato's ideas have influenced theories in political philosophy and served as a source of inspiration for authoritarian regimes. Popper emphasizes that Plato's political philosophy is authoritarian and tends to create dogmatic control mechanisms in pursuit of achieving a perfect, static society, which diminishes the freedom of individuals.

Within ancient Greek philosophy, a description probably closer to a modern understanding of social justice can be found in the writings of Plato's student Aristotle and his *Nicomachean Ethics*.[11] In the tragedy trilogy *Oresteia*, written around a hundred years prior to the *Nicomachean Ethics* (around 458 BCE) by Aeschylus, the goddesses of revenge (the Erinyes or Furies) are transformed into the Eumenides (the well-disposed). The guilt of Orest, who had killed his mother and therefore fled from the Erinyes, is assessed by a council of Athenian citizens before Athena finally passes judgement. This ends the cycle of bloody revenge within the house of Atreus. Justice is not established through revenge, but through laws and an independent court.

Finding the moderate, balanced path is, just as it is in the *Oresteia*, a central idea in Aristotle's writings. In the fifth book of the *Nicomachean Ethics*, Aristotle begins by setting up distinctions between different types of justice. Since justice has several meanings, it is important to enable a differentiated understanding.[12] First, justice appears as an "attribute of character" in which "every virtue is summed up".[13] Aristotle distinguishes between "complete" and "partial" justice. Complete justice is "the virtue that is exhibited by human beings in their relations with others insofar as these interactions promote a good life and lead to happiness for the members of the political community as a whole."[14] Partial justice is concerned with "the share of benefits

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[10] Johnston: A brief history of justice. 2011, p. 60.

[11] Aristotle: The Nicomachean Ethics. London: Penguin. 2004.

[12] See: Bien, Günther: „Gerechtikeit bei Aristoteles (V)" In: Aristoteles, Nikomachische Ethik. Höffe, Otfried (Ed.). Berlin: Akademie-Verlag. 2010. p. 135–164.

[13] Johnston: A brief history of justice. 2011, p. 64.

[14] Ibid.

individuals should receive and of burdens they should bear."[15] Following, and this has been the main focus of research into Aristotle's concept of justice, on a societal level, Aristotle distinguishes two main types of justice:

- Distributive Justice: which concerns the distribution of goods, rights, and opportunities in a society. He argues that distribution should follow a principle of proportionality, meaning that individuals should be rewarded according to their merit or contribution to society. Those who contribute more should receive a greater share.
- Corrective Justice: which comes into play when injustice occurs or contracts are breached. It involves restoring balance through appropriate punishments or compensations. He emphasizes that the punishment should be proportional to the wrongdoing to be just.[16]

Johnstone (2011) posits that "in Aristotle's theory we can discern many of the principal concepts, categories, and claims about justice that have shaped western ideas down to the present day."[17] Especially the insights into distributive justice enrich ancient thinking about justice and contribute to the development of more complex theoretical approaches. With Aristotle, the *lex talionis* (mentioned above as principle of reciprocity) becomes more nuanced. Aristotle argues that mere reciprocity (he refers to theoretical concepts by Pythagorean philosophers), where one responds in kind to an offense, does not automatically restore justice. For instance, if a politician is subjected to public humiliation, such as being spat on or beaten, justice is not inherently restored by the politician responding in a similar manner. Aristotle's viewpoint introduces complexity, highlighting that justice involves a more thoughtful consideration of the circumstances, proportionality, and the restoration of balance, rather than a simple act of retaliation.

1.3 Intermedium: The nearly two millennia we skip

Now, with our minds well-stocked, let us climb together to the top of the Acropolis of Athens. With Aristotle, we have witnessed the emergence of more comprehensive theoretical approaches that examine justice from multiple perspectives, both on an individual and societal level. Considerations about the distribution of opportunities and goods come into focus, as well as ideas regarding how this distribution can be regulated and controlled. Before fast-forwarding through approximately two thousand years of history, we want to highlight two discernible trends in the conceptualization of justice during the Roman Empire. Additionally, we will

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[15] Ibid.
[16] See: Brickhouse, Thomas C.: „Aristotle on Corrective Justice" In: Journal of Ethics. Vol. 18. 2014. p. 187–205.
[17] Johnston: A brief history of justice. 2011 , p. 88.

explore the contributions made by the Romans to the continued evolution of legal systems.

The two main philosophical currents that extend from Greek into the Roman culture are the Epicureans (here we can observe connections to positions that we will later explore within utilitarian approaches), and the school of Stoicism. Zeno of Citium is considered the first Stoic philosopher, building upon Plato with his work *Republic* (around 322 BCE), which has not survived. Upon truly arriving in Rome, at the transition between the Old Republic and the Roman Empire, Cicero emerges as an important representative of Stoic philosophy. He primarily translates the works of Greek philosophers and translates their ideas into Roman culture. In his dialogically structured work *De Legibus* , Cicero expands on the concepts of law and justice, seeing their origins in nature (*ius naturae*) and in the nature of humanity. He asserts that all individuals can recognize what is just through rational contemplation. The doctrine of natural law, which can also be found within the writings of Plato and Aristotle, had a significant influence on further ancient philosophers and theologians, such as Augustine, on scholastic philosophers like Thomas Aquinas, and on Enlightenment philosophers like Hobbes, Locke, and Rousseau, whom we will visit soon. Profoundly influential for the subsequent European history are the Roman legal texts. Particularly noteworthy is the extensive compilation known as the *Corpus juris civilis* (AD 528-534), commissioned by the Byzantine Emperor Justinian I, which has deeply influenced European legal systems.

1.4 Evolution of "modern" Paradigms: Princes and Leviathans

Published in 1651, Thomas Hobbes *Leviathan* is often considered as a foundational work for modern political theory. One aspect, we want to consider at this point, is the conception of human nature or the specific anthropology that underlies political or social theories. Axel Honneth (2021)[18] points out that with Machiavelli's *The Prince*, the idea of subjects entangled in constant conflicts of interest is explicitly formulated. In this tradition, Hobbes thinks of societies as aggregates of atomistic individuals, who are driven by self-interest. He conducts a thought experiment in which he envisions a human community without a form of government or laws, thus contemplating a hypothetical state of nature for humans. Hobbes assumes that in this state, anarchy prevails, a war of all against all (*bellum omnium contra omnes*). The fundamental concept that suggests societies are formed by individuals driven by self-interest has been highly influential in modern political theory, exemplified, for instance, in the economic writings of Adam Smith (*Wealth of Nations*) and recently being again explicitly formulated for example by scientist like Richard Dawkins (*The selfish gene*).

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[18] Honneth, Axel: Kampf um Anerkennung. Zur moralischen Grammatik sozialer Konflikte. Frankfurt am Main: Suhrkamp. 2021.

Different approaches can be found within the early works of Georg Wilhelm Friedrich Hegel, which regained popularity in the 20th century, as we will discuss later in the context of gender studies and theories on justice and identity.[19] Hegel attempts a description of societal development based on the premise that subjects continually influence each other, and it is through this reciprocity of interaction that they become subjects. In doing so, he formulates a counter position to an atomistic model of society. Mutual interactions, in the form of processes of reciprocal recognition, are fundamentally constitutive for societal formations as well as for the formation and evolution of subjects.

But returning to Hobbes, alongside the thought experiment of the state of nature, his idea of a social contract became highly influential. As mentioned above, the state of nature is not quite appealing, because life in such a state (one of my favourite Hobbes-quotes) would be "solitary, poor, nasty, brutish, and short." To avoid this chaotic situation, individuals would agree to transfer their natural rights to a sovereign authority, creating a common power, which he calls "Leviathan". This social contract, in Hobbes view, is a rational and self-interested agreement to surrender certain freedoms in exchange for protection and order provided by the sovereign.

Theories of social contracts were widespread in the 18th century, as seen in the writings of John Locke (which were fundamental for the American Declaration of Independence) and Rousseau's *Du contrat social*, for example. Rousseau, like Hobbes, begins with a state of nature. However, unlike Hobbes, in Rousseau's thought experiment, individuals are free and equal. Nevertheless, they are marked by uncertainty and instability in this state. To overcome this uncertainty, people enter into a social contract through which they exchange their individual freedom for a common freedom and security. The structure formed through the social contract can be just, insofar as individuals subordinate their private interests to the general will of society.

With contract theories, we further reach the 20th century. In his work *A Theory of Justice*,[20] John Rawls draws on contract theories and develops a distinct approach that had a profound impact on political theory in the latter half of the last century. Before we continue, let's note that starting with the Renaissance and continuing through the Enlightenment, the individual is brought to the forefront of interest. For instance, Rousseau articulates, and many examples before Rousseau could be cited, that all individuals should have equal starting conditions and rights. The privileges of the nobility are radically questioned and dismantled with the French Revolution. Justice as the equality of all people is established as a prevailing idea. To give an example out of Smith's *Wealth of Nations* (1776) "The difference of natural talents in different men is, in reality, much less than we are aware of [...] The difference between the most dissimilar

[19] Ibid.
[20] Rawls, John: A theory of justice. Cambridge/London: Belknap Press. 2005 (1971).

characters, between a philosopher and a common street porter, for example, seems to arise not so much from nature, as from habit, custom, and education."[21] A position that aligns closely with later 20th-century sociological perspectives, such as found in Pierre Bourdieu's *Distinction* (1979).

1.5 Utilitaristic and Contractualistic Approaches

In the Preface of his seminal work, Rawls posits that "During much of modern moral philosophy the predominant systematic theory has been some form of utilitarianism." Here, Rawls is referring to a tradition of thought based on the writings of theorists such as David Hume, Adam Smith, Cesare Beccaria, Jeremy Bentham, John Stuart Mill, and Henry Sidgwick. The main idea of justice in utilitarian positions is summed up by Rawls as, „[a society] is rightly ordered, and therefore just, when its major institutions are arranged so as to achieve the greatest net balance of satisfaction summed over all the individuals belonging to it."[22]

Utilitarian positions view the social world as a product of human conventions and ask how these structures should be designed to establish justice, meaning a maximization of overall happiness or well-being. Hume for example posits, that "public utility is the sole origin of justice." Bentham furthermore suggests that "it is the greatest happiness of the greatest number that is the measure of right and wrong." We can observe that the principle of reciprocity, as seen in the writings of Aristotle, for example, is not considered in utilitarian approaches to justice. According to utilitarianism, a person who has committed a crime should be put in custody not necessarily because it is deemed a just verdict, but rather because it serves the greater good of the society. In this perspective, the action is taken to prevent potential harm and maximize overall happiness, as individuals in the society might be at risk of experiencing more pain due to the actions of the criminal.

Rawls criticizes utilitarian positions. For instance, he argues against the greatest happiness principle, contending that the liberty of individuals is not sufficiently protected. Scenarios could be envisioned where the restriction of the freedom of a small population group might be justified for the greater well-being of society. Johnstone (2011) point out that for Rawls "any idea of justice that provides inadequate protection for liberty is necessarily flawed."[23] Rawls directs his attention primarily to institutions and practices that constitute the fundamental structures of a society. The design of these structures essentially determines the opportunities available to individuals from various social strata: "Justice is the first virtue of social institutions, as

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[21] Smith, Adam: Wealth of Nations. Oxford/New York: Oxford University Press. 1993 , p. 23-24.
[22] Rawls: A theory of justice. 2005 (1971) , p. 22.
[23] Johnston: A brief history of justice. 2011 , p. 197.

truth is of systems of thought.“[24] His theoretical approach views ”justice as fairness“, and a society should be a ”fair system of social cooperation among free and equal persons“. To think about a societal system that could potentially establish the foundation for these conditions, Rawls relies on the previously described methods of a hypothetical original position and a social contract. But unlike within Rousseau, Locke, or Kant, Rawls introduces a condition into the thought experiment. The decisions on how a just society should be structured, must be made under, what he calls, a veil of ignorance. This means that individuals do not know what abilities they will have or into which social position they will be born. When envisioning a system that favours a few wealthy individuals, one cannot place oneself in that specific position.

Under this conditions Rawls concludes that the deciding Individuals (or parties) in the original position would agree on the following terms:

- ”Each person has an equal right to a fully adequate scheme of equal basic liberties which is compatible with a similar scheme of liberties for all.
- Social and economic inequalities are to satisfy two conditions. First, they must be attached to offices and positions open to all under conditions of fair equality of opportunity; and second, they must be to the greatest benefit of the least advantaged members of society.“[25]

Whereby the first principle “must be fully satisfied before the second comes into play.”[26] Next to these basic principles of justice as fairness, a society should aim to cultivate a set of attributes in its citizens, meaning that all members of the society should be able to fully understand and apply those principles (what he calls ”the attributes of moral personality“).

In conclusion, we can recap that Rawls envisions a just society where fundamental rights and liberties are protected, and social and economic inequalities are arranged to benefit the least advantaged. His concepts of a “original position“ and a “veil of ignorance“ underscore the idea of unbiased decision-making, ensuring fairness for all members of society.

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[24] Rawls: A theory of justice. 2005 (1971) , p. 3.
[25] Ibid. , p. 302.
[26] Johnston: A brief history of justice. 2011 , p. 213.

2. An outlook on theories of Recognition, Feminism, Gender Studies and Postcolonial Studies

We have encountered various texts and witnessed how diverse theoretical approaches attempt to describe justice and how state organizational systems could be structured to achieve optimal justice. Many names have flashed by What can catch our attention at this point is – that all these names belonged to men. We have flown past major revolutions and social upheavals, but as the Austrian writer Else Jerusalem puts it in *Gebt uns die Wahrheit* (*Give us the truth*) (1902) "Great events unfolded, and thoughts—revolutions that poured over the earth like storms—freedoms were scattered with blessing hands, chains were loosened, and dungeons were shattered. Generations came and went, each grasping woman with both hands, suffering for her, rejoicing in her—and then neatly placing her back in the age-old assigned place that society has designated for her for millennia."[27] The works of Else Jerusalem, including one of the earliest and most extensive novels set in a brothel, depicting the plight of socially disadvantaged women and addressing issues such as human trafficking in the Austro-Hungarian Empire, experienced significant popularity shortly after the turn of the 20th century. Remarkably, these texts, largely forgotten for nearly a century, have only been reissued in the last decade.

We observe that our societies can be permeated by structural injustices. Disadvantages based on gender, origin, ethnic affiliation, etc., have increasingly been a subject of intense media discourse, particularly in recent decades. Mainly beginning in the 20th century, diverse theoretical approaches have emerged to expose and analyse these injustices more closely. Miranda Fricker, for instance, examines the distribution of knowledge in our societies, demonstrating how certain social groups can be stigmatized as not credible or how a lack of knowledge or understanding about specific topics affecting people within the society can exist.

A fascinating theoretical field lies ahead of us, questioning the structures of our perception and the systems of orders in which we think. This article marks the beginning of the thematic block on social justice, which we, at the Quo Vadis Institute, will be addressing. In the coming weeks, we will strive to paint a nuanced picture. As we embark on this exploration of social justice, we invite you to join us in navigating the complexities of the topic, initiating dialogues, that resonate with the ongoing challenge for a more equitable world.

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[27] Translated by the author.

3. Conclusion

The article offers a brief survey of theories on justice. By quoting Foucault's *The Order of Things* at the beginning, I aimed to highlight that this selection itself is somewhat problematic. The establishment of what is considered canonical knowledge, as well as the recognition of those who contribute to it, is shaped by social judgments, mirroring the societal structures of particular historical epochs as well as of our present.

As a Christian, I have always found it intriguing to contemplate our social systems. I'm not a theologian, and I'm aware that there are various positions on this topic. However, I have always read the Gospels as a sociological study as well. In his teachings, Jesus challenges conventional ways of thinking about and categorizing people. He builds bridges between different social classes and geographical as well as political spaces. It has always been intriguing for me to read about how challenging it was for the apostles to accept that the words of Jesus apply equally to all people in the world, that every individual stands equal before God, and that equal starting conditions prevail.

I believe it is crucial for us to question our own perception in this field as well as the structure of the systems and epistemes surrounding us. The theories provided above may be a starting point for exploration, but there is much more to be discovered.