



AP file

SOME THOUGHTS ON JUSTICE

By Mortimer Adler

WITH REGARD TO THE IDEA OF JUSTICE, the central and predominant controversy consists in a three-sided dispute. There are three conflicting theories, two ancient, one modern.

Coming down to us from antiquity is the view that might makes right. This, in the course of centuries, became the legalist or positivist theory of justice, which holds that, antecedent to the positive law of the state that carries with it the force of the sovereign, nothing is either just or unjust. Unjust acts are those prohibited by the positive law; just acts those prescribed by it.

Equally ancient is the view that natural justice is antecedent to legal justice—that the precepts of the natural moral law and the existence of natural rights determine what is just and unjust prior to

and independent of legislative enactments by *de facto* or *de jure* governments. This being the case, states, constitutions, governments, and their laws can be judged just or unjust by reference to natural rights and the principles of natural justice.

The third side in this three-cornered dispute is the utilitarian or pragmatic theory of justice, which emerged in the nineteenth century. According to this view, the criteria of what is just or unjust in human actions as well as in the acts or policies of governments and in the laws they make and enforce derive from the consideration of the ultimate end to be served—called the “general happiness” or “the greatest good for the greatest number” by the early utilitarians, but equally well named when it is called “the general welfare” or “the common good.” Acts, policies, and laws are just to the extent that they serve and promote the general welfare or the common good; unjust to the extent that they injure it or detract from it.

In my view of the matter, each of these three theories of justice is false when it claims to be the whole truth, excluding what is sound in the other two theories. Though I favor the naturalist theory as sounder than either of the other two, I must concede that when it claims to be able to answer all questions about justice by reference to natural rights, it goes too far. The questions it can answer are of prime importance, but they fall short of being all the questions that call for answers.

Similarly, the claim that all questions of justice can be answered by reference to criteria of fairness in exchanges or distributions is excessive. Some, but only some, certainly can be, and these are of secondary importance.

Questions about justice that cannot be answered by reference to natural rights or criteria of fairness can be answered by the consideration of what is expedient or inexpedient in relation to the general welfare or the common good. However, many—though not all—determinations of what serves or disserves the general welfare or the common good turn out upon examination to be identical with determinations of the just and the unjust by reference to natural rights or to criteria of fairness. The protection of natural rights from violation and the requirement of fairness in exchanges and distributions are highly expedient social policies. They promote the general welfare or the common good.

Finally, the claim made by the legalists or positivists that all questions of justice can be answered by reference to laws enacted

by the state and enforced by a government in power can be embraced only by those who are unashamed to espouse the extreme doctrine that might makes right. Nevertheless, a retreat from that extreme must admit that some determinations of what is just or unjust stem solely from the enactment of ordinances that decide which of several alternative policies should be adopted as expedient in the service of the public interest.

None of these alternatives is to be recommended on the ground that it secures natural rights or that it represents fair dealing. None is superior to the others as being more expedient in the service of the general welfare. Therefore, it is only the enactment of a positive law embodying that alternative which determines what is just in this case.

The reconciliation of the three conflicting theories of justice can be accomplished by avoiding the excessive claim each makes and by putting what is true in each of them together in a well-ordered manner. This can be briefly set forth as follows.

Everything that is just by reference to natural rights or just by reference to criteria of fairness is also just through being expedient in the service of the common good or general welfare. What is just by reference to natural rights takes priority over what is just by reference to criteria of fairness because the latter is based on the personal equalities and inequalities of individuals—their endowments and attainments and how they put them to use—whereas the former is based on the natural needs common to all persons as members of the human race.

Everything that is expedient in the service of the common good or general welfare is just because it serves that end, but it may not always be just also by reference to natural rights or to criteria of fairness. Herein lies the special truth contributed by the pragmatic or utilitarian theory of justice.

All of the foregoing determinations of what is just or unjust can be made antecedent to the enactment of positive laws by the state. In fact, the enactment of positive laws that are just embodies the foregoing determinations of what is just.

However, some things cannot be thus determined to be either just or unjust. They are morally indifferent in the sense that they are neither for nor against natural rights, neither fair nor unfair, neither more nor less expedient in the public interest.

Nevertheless, in the public interest, one or another alternative course of action must be decided upon. When this decision is made by legislative enactment, a course of action prescribed by positive law becomes just, and one prohibited by positive law becomes unjust. Herein lies the special truth contributed by the legalist or positivist theory of justice.

If the formulation I have just presented is correct (which readers must decide for themselves), the reconciliation of the three conflicting theories has been accomplished by rejecting the extravagant claims made by each of them and by recognizing that each makes an indispensable contribution to the whole truth that is not made by the others. It is also necessary to put these partial contributions together in a way that recognizes the inherent priority of the naturalist theory over the pragmatic or utilitarian theory, and of both over the legalist or positivist theory. When this is done, we end up with a sound and adequate rendering of the idea of justice, and one that, in my judgment, cannot be achieved in any other way.

We are still left with the two most difficult questions about justice that have ever been raised. Both were raised by Plato at the very beginning of our Western thinking about justice. One, I think, can be answered; but the other may be unanswerable.

The first of these two questions is, Why should anyone be just in his or her action toward others or in relation to the community in which he or she lives?

This question was raised by Plato in the first two books of his *Republic*, in the context of inquiring whether the individual who acts justly profits from it in terms of his own happiness. In other words, should the individual act justly because it is expedient for him to do so on the grounds that his justice toward others promotes the pursuit of his own happiness?

On the face of it, the answer would appear to be negative. Even the acknowledgment that being virtuous is expedient as a means to happiness does not lead to a positive answer.

To make what is ultimately a whole good life, the individual must, of course, make the right choices concerning the goods he needs and wants. Moral virtue is the firm habit that disposes the individual to make such choices.

The habitually intemperate individual, who wrongly chooses to

indulge in excessive desires for merely apparent goods that afford immediate pleasure, in preference to the real goods he or she in the long run needs, moves in a direction that departs from the route to his or her ultimate good. The same thing can be said of the habitual coward, who, lacking fortitude, turns away from the real goods he should seek because of the pains to be endured or the difficulties to be overcome in acquiring them.

So far it is clear that being morally virtuous (at least to the extent of being temperate and courageous) is not only worthy in itself but also expedient as an indispensable means to achieving a good human life. But what about that aspect of moral virtue that is called justice?

As I see it, the only answer must lie in a truth that is difficult to explain and that is seldom understood. If the moral virtues I have named—temperance, courage, and justice—were three separate habits any one of which a person might possess without having the others, then I, for one, would not know how to argue for the expediency of being just toward others as a means to my own happiness. However, if, on the contrary, the three habits named are distinct but not separable aspects of moral virtue as an integral and indivisible whole, then the answer sought is in sight.

The argument runs as follows. I cannot achieve the happiness of a good human life without being morally virtuous—without having the firm habit of making right choices. I cannot be morally virtuous in one respect without being morally virtuous in all respects, because the three aspects of moral virtue that I have named are inseparable from one another.

I cannot be temperate without being courageous and just. I cannot be courageous without being temperate and just. If I am unjust, I cannot be either temperate or courageous. But intemperance on my part and lack of fortitude will defeat my pursuit of happiness. Hence injustice on my part will defeat it also.

Therefore, in order to succeed in my effort to achieve my own ultimate good, which is a good human life as a whole, I must be just in my actions toward others and in relation to the community in which I live.

What underlies this argument and explains the truth on which it rests is a fundamental insight into the nature of moral virtue as a direction of human conduct toward the ultimate and common good.

Our actions are directed either toward that end or away from it.

A given choice or act cannot be pointed in both directions at once. Nor can we have the habit of moving in that direction when we make choices with respect to our own good, while at the same time having the habit of moving in the opposite direction when we make choices with respect to the good of others.

Moral virtue being one integral whole, with a diversity of distinct but inseparable aspects, it always points us in one and the same direction whether we are considering our own happiness or the happiness of others. That is why my being just to others is also expedient as a means toward the attainment of my own happiness.

The other question Plato asked was, Is it better to suffer injustice at the hands of others or to be unjust toward them? The question presupposes, of course, that we are confronted with this difficult choice: We must either act unjustly toward others or suffer unjust treatment by them. Faced with these alternatives, which should we choose?


Plato himself was persuaded that the choice should always be to suffer injustice rather than do it. In his view, no injury that we can suffer at the hands of others can possibly be as destructive of our well-being as taking unto ourselves the moral evil of being unjust toward others. That view rests on an inadequate understanding of human happiness or well-being.

Toward the end of the trial of Socrates, Plato has him say that no harm can come to a good man in this life or the next. If this is interpreted to mean that the morally good or virtuous man cannot be seriously harmed by any external injury inflicted upon him by others; if, in other words, the only serious injury that an individual can suffer is one he inflicts upon himself by conduct that is not morally right or virtuous, then we can see why Plato thought that it is always much better to suffer injustice than to do it.

My rejection of Plato's view of the matter turns on a conception of human happiness that involves the possession of all the things that are really good for a person, among which a morally good or virtuous will is *only one*, however important that one may be. Life and liberty, knowledge and friends, health and a modicum of wealth and other goods of fortune—all these are also real goods the possession of which is indispensable to a good human life.

This being so, my pursuit of happiness can be seriously impaired or even defeated by the injuries ! suffer if I am enslaved, if my health is maimed, if I am deprived of sufficient wealth, if I am kept in ignorance, and so on. These are injuries I can suffer at the hands of others or from the injustice of the society in which I live.

I, therefore, think that there is no general answer to Plato's question about doing and suffering injustice. In particular cases, it may be possible to decide that, confronted with certain alternatives, it is better to suffer injustice than to do it, because the injury suffered results only in a slight impediment to my pursuit of happiness, whereas the injury I inflict upon myself by being unjust may have much more serious consequences for my moral character. However, the latter would be the case only if my act of injustice in this one instance should lead to subsequent similar acts that then altered my habitual disposition and ended up in my loss of moral virtue itself, which is very unlikely.

The choice between doing and suffering injustice becomes a difficult and onerous one only when the external injury that threatens us would result in a total deprivation of one or another real good that we need in order to live well. If, in order to avoid the serious injury that threatens our happiness, we have to commit one act of injustice and one that does not lead to the *loss of moral virtue* on our part (because one act neither makes nor breaks a habit), then it may be clearly preferable to do injustice in this one instance rather than to suffer it. 

Excerpted from *Six Great Ideas*.

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