



FACULTY OF JURIDICAL SCIENCES

COURSE: LL.M 1 Year

Semester: IInd

GROUP: 1. Constitutional and Administrative Law

2. Corporate and Business Law

3. Criminal and Security Law

SUBJECT: : LAW AND JUSTICE IN A

GLOBALISING WORLD

SUBJECT CODE: LLM 201

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Lecture-5



LECTURE 5: Aristotle's Theory of Justice

Aristotle's Theory of Justice!

The entire Greek political thought revolves around the important concept of justice. This is an abstract concept and is difficult to define it in fixed terms, as it is viewed differently by different thinkers. But for Aristotle, justice is of two types, viz., universal justice and particular justice. The former refers to obedience to laws—that one should be virtuous.

As far as particular justice is concerned, it is again of two types, viz., distributive justice and remedial or corrective justice. Distributive justice implies that the state should divide or distribute goods and wealth among citizens according to the merit.

Again remedial justice is divided into two, dealing with voluntary transactions (civil law) and the dealing with involuntary transaction (criminal law). Further, Aristotle added commercial and cumulative justice to the above-mentioned types of justice.

Distributive Justice:

Aristotle was of the opinion that this form of justice is the most powerful law to prevent any revolution, as this justice believes in proper and proportionate allocation of offices, honours, goods and services as per their requirement being a citizen of the state.

This justice is mostly concerned with political privileges. Aristotle advocated that every political organization must have its own distributive justice. He, however, rejected democratic as well as oligarchic criteria of justice and permitted the allocation of offices to the virtuous only owing to their highest contributions to the society, because the virtuous people are few. Aristotle believed that most of the offices should be allocated to those few only.

Corrective Justice:

All laws related to commercial transactions are dealt within the remedial and corrective actions. It aims to restore what an individual had lost due to the injustice of the society. This justice prevents from encroachments of one right over the other.

Aristotle opined that corrective justice relates to voluntary and commercial activities such as hire, sale and furnishing security. These actions involve aggression on life, property, honor and freedom. In brief, this justice aims at virtue and moral excellence of character and it is for this reason, it is called corrective justice.

The distinction between "commutative Justice," and "distributive Justice" " is undoubtedly the best known and most significant feature of what might be called Aristotle's "theory of law." It is erroneous, however, to assume that this distinction actually constitutes the structural scheme underlying his "legal system," or that it was proposed as such by Aristotle. While it is certainly true that the concepts of "commutative Justice" and "distributive Justice" were coined and treated by Aristotle, it must be acknowledged on the strength of existing literary evidence that he never seriously attempted to "schematize his legal theory" according to the above-mentioned distinction, and that all such schematizations are, in the last analysis, the product of later interpretation and interpolation of his doctrine. Equality, also called "Justice in the narrow (or special) sense," consists of two main phases, the first of which is exhibited in the act of "distributing" certain matters between two or more persons, or in adjusting " them to their proper ratios. Every form of proportional adjustment in the sense of Equality or "equitable fairness" has to deal not only with the reciprocal claims of two or more persons, but also with the persons making the claims.

On the other hand, "commutative Justice," which constitutes the second phase of the principle of Equality or "equitable fairness," is distinguished from "distributive Justice" in so far as it ignores the rank of the persons involved. Thus "commutative Justice" requires only two factors, since its particular task is limited to the proportionate ratio between two "goods" - labor and wage, damage and recovery, and the like.

SELF-TEST QUESTIONS

S.NO	Question	Option (a)	Option (b)
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1.	Justice signifies Equality	True	False
2.	Justice according to an authoritative rule" and Equality, Aristotle states that a person whose conduct is "unjust," who acts contrary to certain moral principles	True	False
3.	Justice in the sense of Equality has to do with external and commensurable things;	True	False
4.	Justice or the "just" in the sense of moral virtue is determined by the authoritative rule or rules of human conduct, while Justice in the sense of "proportionate fairness" is founded on the principle of Equality.	True	False
5.	Aristotle explains the relation of "moral Justice" and Equality by pointing out that Equality is related to "moral Justice" in the same way as the part is related to the whole.	True	False

Answers: 1-(a),2-(a), 3-(a),4-(a),5-(a)