

ARISTOTLE

NICOMACHEAN ETHICS V

Now of the Particular Justice, and the Just involved in it, one species is that which is concerned in the distributions of honour, or wealth, or such other things as are to be shared among the members of the social community (because in these one man as compared with another may have either an equal or an unequal share), and the other is that which is Corrective in the various transactions between man and man. And of this latter there are two parts: because of transactions some are voluntary and some involuntary; voluntary, such as follow; selling, buying, use, bail, borrowing, deposit, hiring: and this class is called voluntary because the origination of these transactions is voluntary.

[Distributive Justice]

[I]f the persons are not equal they must not have equal shares; in fact this is the very source of all the quarrelling and wrangling in the world, when either they who are equal have and get awarded to them things not equal, or being not equal those things which are equal. Again, the necessity of this equality of ratios is shown by the common phrase “according to rate,” for all agree that the Just in distributions ought to be according to some rate: but what that rate is to be, all do not agree; the democrats are for freedom, oligarchs for wealth, others for nobleness of birth, and the aristocratic party for virtue. ... This then is the one species of the Just.

[Corrective Justice]

And the remaining one is the Corrective, which arises in voluntary as well as involuntary transactions. Now this just has a different form from the aforementioned; for that which is concerned in distribution of common property is always according to the aforementioned proportion: I mean that, if the division is made out of common property, the shares will bear the same proportion to one another as the original contributions did: and the Unjust which is opposite to this Just is that which violates the proportionate.

But the Just which arises in transactions between men is an equal in a certain sense, and the Unjust an unequal, only not in the way of that proportion but of arithmetical. Because it makes no difference whether a robbery, for instance, is committed by a good man on a bad or by a bad man on a good, nor whether a good or a bad man has committed adultery: the law looks only to the difference created by the injury and treats the men as previously equal, where the one does and the other suffers injury, or the one has done and the other suffered harm. And so this Unjust, being unequal, the judge endeavours to reduce to equality again, because really when the one party has been wounded and the other has struck him, or the one kills and the other dies, the suffering and the doing are divided into unequal shares; well, the judge tries to restore equality by penalty, thereby taking from the gain.