
UNIT 20 JUSTICE

Structure

- 20.0 Objectives
- 20.1 Introduction
- 20.2 Meaning of Justice
 - 20.2.1 Justice and Law
 - 20.2.2 Justice and Discrimination
- 20.3 Distributive Justice
 - 20.3.1 Distributive Justice and Economic Justice
- 20.4 Social Justice
 - 20.4.1 Predominance of the Interest of the Community
 - 20.4.2 Reforms or Social Change
 - 20.4.3 Pound's Illustration of Social Justice
 - 20.4.4 Criticism of Social Justice
- 20.5 Procedural Justice
- 20.6 John Rawls's Theory of Justice
- 20.7 Justice: A Term of Synthesis
- 20.8 Let Us Sum Up
- 20.9 Some Useful References
- 20.10 Answers to Check Your Progress Exercises

20.0 OBJECTIVES

This unit discusses one of the most basic and important concepts in political science in general, and political theory in particular. After studying this unit, you should be able to:

- Define the meaning of the concept of justice;
- Distinguish between the various aspects of justice;
- Identify and describe the different theories of the nature of justice;
- Describe the relationship between liberty, equality, law and justice.

20.1 INTRODUCTION

By now, you all must be knowing about the concepts like law, rights, liberty and equality. A prior study of these concepts will help in understanding the concept of justice. The element of justice, in fact, connects the above mentioned themes.

In this unit, we shall first try to understand the meaning of the concept in its different aspects. Then, we shall study the different theories of justice. We shall also try to bring out the relationship between justice on one hand and law, liberty and equality on the other.

Justice is one of the important aims of the state. One of the earliest treaties on politics, Plato's 'Republic' was an attempt to construct a just state. Justice was its

central concept. Therefore, a correct understanding of this concept will help in evaluating different political systems, their policies and the ideologies on which they are based. Thus, justice is the reconciler and synthesizer of political values and as said by Aristotle it is 'what answers to the whole of goodness'.

20.2 MEANING OF JUSTICE

Any discussion of the concept of justice has to take into account its multi dimensional character. The answer to 'what is justice' can only be given by indicating guidelines (values) along which men have thought of justice and will continue to do so. It changes with the passage of time. Thus, what was justice in the past, may be injustice in the present and vice-versa. Thus, there have been the 'egalitarian' perception of justice where the highest place is accorded to the value of equality; the 'libertarian' perception in which liberty is the ultimate value; the Divine view in which justice is the execution of God's will, the 'hedonist' makes 'the greatest good of the greatest number' the criterion of justice; to the 'harmonizer' justice is the harmonizing of different elements and values to produce a satisfactory balance. Some identify justice with 'duty' or with maintenance of peace and order; others view it as an elitist function. Thus, justice concerns the right of the individual as well as the social ordering of society. It is legal and moral at the same time. In short, it is an ethical concept.

20.2.1 Justice and Law

The Roman lawyers integrated the ideas of 'natural justice' with the positive law of the state. As such, the civil law and the law of nations are in conformity with the law of nature. This, however, is an abstract phase of jurisprudence. Infact, justice lies in the enforcement of the positive law. Both law and justice seek to sustain social order. John Austin is the main advocate, who tells that the law has to function as an instrument of justice, on the one hand, and function as an instrument to suppress mischief, on the other.

Legally, the administration of justice can be criticised as unjust if it fails to meet the standard of fairness required by the procedures of the legal system, viz. the accused should be informed of the charges leveled against him; he should be given a reasonable opportunity to defend himself etc; while morally, a law can be called unjust for if it fails to meet the moral ideas of justice. Morality however goes beyond justice.

The symbol of justice is often portrayed as blindfolded because it is supposed to be impartial. That there should be no discrimination between the two extremes – rich or poor, high or low. Therefore, impartiality, becomes a precondition to justice. Does it mean then that justice does not require discrimination at all?

20.2.2 Justice and Discrimination

Plato and Aristotle argued for a different interpretation of justice, "proportionate equality" with the idea of "righteousness". The philosophical interpretation of justice takes an empirical direction at the hands of Aristotle who says: "Injustices arises when equals are treated unequally". This means that if in a democracy there is discrimination on the basis of sex, it would mean treating the equals, unequally. Also, it would be unfair to pit a heavy-weight wrestler against a lightweight one. Thus, justice requires discrimination on the basis of differences, which is relevant to the functions performed. Plato's theory of justice too implied that the life of people should conform to the rule of functional specialization. Here, justice becomes another name for the principal of 'proper stations' i.e. a man should practice one thing only to which his nature is best adapted. This has both individual and social aspects. The highest good of both the individual and the society is conserved, if we take it for granted that