
IS JUSTICE THE ABSENCE OF INJUSTICE? A LEGAL AND PHILOSOPHICAL INQUIRY - INCORPORATING INSIGHTS FROM HERZBERG'S TWO-FACTOR THEORY

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ABSTRACT

The idea that justice is just the absence of injustice makes sense, but it's not complete. This article argues that justice and injustice function on two different levels. One level focuses on getting rid of injustice, while the other focuses on actively creating fairness, dignity, and equality. Drawing on Aristotle, John Rawls, and Frederick Herzberg's Two-Factor Theory, it develops a dual-dimensional framework and tests it against four decisions of the Supreme Court of India. The conclusion is that eliminating injustice is necessary but not sufficient. A genuinely just order must be constructed, not merely uncovered.

Keywords: Justice; Injustice; Herzberg Two-Factor Theory; Dual-Dimensional Framework; Aristotle; Rawls; Distributive Justice; Corrective Justice; Constitutional Law; Fundamental Rights; Dignity; Equality.

I. INTRODUCTION

Justice is one of the most cited and least agreed-upon ideals in law and political thought. It features in constitutional preambles, court judgments, and public debate, yet its meaning shifts with context.¹ A widely held view, in both popular thinking and certain schools of legal positivism, is that justice simply means the absence of injustice. The argument runs as follows: remove discrimination, curb abuses of power, and protect fundamental rights, and justice will follow. This position has a certain practical appeal. It focuses attention on concrete wrongs rather than abstract ideals.

This article challenges that position. Justice and injustice are not opposite ends of one scale. Removing injustice clears the ground; it does not build what must stand on it. The article makes this case through a conceptual distinction between the two ideas, a reading of Aristotle and Rawls, an analogy from Herzberg's motivation theory, and a review of four Supreme Court decisions that illustrate both dimensions of justice in action.

¹ INDIA CONST. pmb. (resolving to secure to all citizens "justice, social, economic and political").

II. JUSTICE AND INJUSTICE AS DISTINCT CATEGORIES

Injustice is often easy to recognize. It appears in things like discriminatory laws, wrongful convictions, exploitation, and the denial of basic rights. Justice, on the other hand, is much harder to point to. It is not something that exists in a single moment or decision. Instead, it is reflected in the way systems are built and function, such as how institutions distribute opportunities, how procedural safeguards actually work, and whether people are treated as equals in a real and meaningful sense.

This distinction is more important than it might initially seem. A state might remove all openly discriminatory laws, yet still leave deeper patterns of inequality untouched. Similarly, a court may follow every procedural requirement perfectly and still arrive at a result that feels unfair. This can happen especially when one party lacks resources, faces institutional bias, or begins the process at a structural disadvantage.² What is procedurally correct is not automatically just. Injustice and justice therefore need to be measured separately; movement on one does not produce movement on the other.

III. THE PHILOSOPHICAL CASE FOR A DUAL CONCEPTION

Aristotle drew a clear line between two types of justice in the *Nicomachean Ethics* and the *Politics*.³ Corrective justice repairs a wrong after it has occurred. Distributive justice focuses on how a society allocates its goods, burdens, and opportunities from the outset. For Aristotle, a just city was not merely one that avoided cruelty; it was one that was organised in a way that ensured each person received what was rightfully due to them. Justice, on this view, is a positive, structural commitment.

Rawls made a similar point from a different direction. In *A Theory of Justice*, he argued that justice is the first virtue of social institutions.⁴ A just society is one in which the basic structure, including its laws, institutions, and the distribution of primary goods, is organised according to principles that rational people would choose if they did not know what position they themselves would occupy within it. His difference principle adds that inequalities are only justifiable if they benefit the least advantaged.⁵ This is not a passive standard. It asks institutions to actively attend to those most likely to be left behind.

IV. THE DUAL-DIMENSIONAL FRAMEWORK

Frederick Herzberg's Two-Factor Theory, originally developed in the context of workplace psychology,

²Maneka Gandhi v. Union of India, (1978) 1 SCC 248, 284 (India) (holding that procedure under Article 21 must be fair, just, and reasonable); INDIA CONST. art. 14 (equality before law), art. 21 (right to life and personal liberty).

³ARISTOTLE, NICOMACHEAN ETHICS bk. V (W.D. Ross trans., Oxford Univ. Press 1998); ARISTOTLE, THE POLITICS bk. III (Ernest Barker trans., Oxford Univ. Press 1995).

⁴JOHN RAWLS, A THEORY OF JUSTICE 3 (rev. ed., Harvard Univ. Press 1999).

⁵Id. at 52-54 (articulating the difference principle: social and economic inequalities are just only if they are to the greatest expected benefit of the least advantaged members of society).

provides a surprisingly precise way to understand this problem.⁶ Herzberg found that the factors causing dissatisfaction at work are not simply the reverse of the factors producing satisfaction. Fixing what is wrong, poor pay, bad conditions, unfair treatment, removes dissatisfaction but does not produce genuine motivation. That requires something more, such as recognition, meaningful work, and a sense of growth. These two dimensions operate independently of each other.⁷

In Frederick Herzberg's model, the absence of dissatisfaction does not amount to satisfaction. It is simply the condition that makes satisfaction possible.

The same parallel applies to justice. Injustice operates much like the hygiene factors in Frederick Herzberg's theory. Its presence causes harm, but removing it only brings the situation back to a neutral state. Justice, in contrast, works like the motivating factors. It requires positive conditions such as fairness, dignity, equal opportunity, and recognition to be actively in place. One cannot substitute for the other.

The Extrinsic Axis focuses on what needs to be removed, such as discriminatory laws, arbitrary exercises of power, exploitative arrangements, and the denial of fundamental rights. This sets the floor. But setting a floor is not the same as building a just society.

The Intrinsic Axis focuses on what needs to be built, including the recognition of human dignity, equal access to opportunity, the fair distribution of benefits and burdens, and legal protection for identity and belonging. Courts and legislatures that address only the first axis may produce outcomes that appear formally acceptable but remain substantively hollow.

V. JUDICIAL ILLUSTRATIONS

Indra Sawhney v. Union of India, (1992) 3 SCC 217⁸

The Supreme Court of India upheld reservations for Other Backward Classes under Article 16(4) of the Constitution, while also capping total reservations at fifty per cent and excluding the "creamy layer." The decision recognised that formal equality is not enough where systemic disadvantage has built up over generations. In such cases, justice requires a structural intervention, not just the removal of a legal barrier.

⁶ Frederick Herzberg, *One More Time: How Do You Motivate Employees?*, 46 HARV. BUS. REV. 53, 56-57 (1968).

⁷Id. at 57 ("The opposite of job satisfaction is not job dissatisfaction but, rather, no job satisfaction; and similarly, the opposite of job dissatisfaction is not job satisfaction, but no job dissatisfaction.").

⁸*Indra Sawhney v. Union of India*, (1992) 3 SCC 217 (India).

Vishaka v. State of Rajasthan, (1997) 6 SCC 241⁹

In the absence of legislation on workplace sexual harassment, the Court drew on CEDAW to issue binding guidelines on employers.¹⁰ The Court did not just identify a wrong; it created a positive obligation to make workplaces safe and dignified for women. This is exactly what the Intrinsic Axis calls for. It is not just about prohibiting harm, but about actively creating the conditions that prevent it in the first place.

Indra Das v. State of Assam, (2011) 3 SCC 380¹¹

The Court held that mere membership of a banned organisation, without proof of involvement in violence, cannot be treated as a criminal offence. On the negative axis, this removed an overreaching legal provision. On the positive axis, it affirmed that freedom of thought and association belongs to every individual, including those whose views the state may disagree with. Justice, in this case, lay both in striking down the excess and in affirming these essential freedoms.

Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1¹²

A nine-judge bench recognised privacy as a fundamental right grounded in dignity, liberty, and autonomy, overturning earlier decisions that had denied it constitutional status.¹³ The Supreme Court of India made it clear that dignity is not a secondary right derived from others, but the foundation from which all rights emerge.¹⁴ This reflects the Intrinsic Axis at its clearest. The Court did not simply correct a past wrong; it established a foundational right that shapes how the entire constitutional framework is understood.

VI. CONCLUSION

The argument that justice is the absence of injustice points to something real. No society can claim to be just while tolerating discrimination, abuse of power, or the systematic denial of rights. But it

⁹ *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241 (India).

¹⁰ Convention on the Elimination of All Forms of Discrimination Against Women art. 11(1)(f), Dec. 18, 1979, 1249 U.N.T.S. 13. The Vishaka guidelines were codified by the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, No. 14 of 2013 (India).

¹¹ *Indra Das v. State of Assam*, (2011) 3 SCC 380, 388-90 (India) (holding that Section 10 of the Unlawful Activities (Prevention) Act, 1967, No. 37 of 1967 (India) cannot be read to criminalise mere membership of a banned organisation absent proof of violent activity).

¹² *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1 (India) (hereinafter *Puttaswamy*).

¹³ *M.P. Sharma v. Satish Chandra*, (1954) SCR 1077 (India); *Kharak Singh v. State of Uttar Pradesh*, AIR 1963 SC 1295 (India), both overruled by *Puttaswamy* to the extent they held that privacy is not a fundamental right.

¹⁴ *Puttaswamy*, (2017) 10 SCC at 264-66 (per Chandrachud J., concurring) ("Privacy is the constitutional core of human dignity.").

describes only the beginning of the task, not its completion.

Herzberg showed that removing what causes harm is not the same as creating what enables flourishing. Aristotle and Rawls showed that justice demands structural, affirmative commitments. The four Supreme Court decisions examined here show that Indian constitutional law has recognised this: the Court has not only invalidated wrongs but has built rights, imposed positive obligations, and given dignity a constitutional home.

Justice may begin where injustice ends; but it does not end there. It continues in every institution designed to ensure that dignity is the norm, equality is delivered, and fairness is structural.

To think of justice only in negative terms is to mistake the floor for the finished structure. Justice is not the residue left when injustice is cleared away. It is what has to be deliberately and carefully built in its place.