Bentham and Marx on Justice*

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1 Introduction

The word 'justice' has an ambiguity in its meaning. On the one hand, justice usually means fair and equal application of the law with a legal or wide moral sense. On the other hand, justice often represents the appropriate distribution of goods, benefits, income and sometimes even opportunities for political participation, with a certain value standard. In the history of economic ideas, however, justice has basically been meant to be commutative justice, or negative justice that would not imply any positive judgement on distribution of holdings. This is mainly because Hume and Smith confine their concern to commutative justice in their analysis of eighteenth century commercial society.

The aim of this paper is to examine the concept of justice or distributive justice in Bentham's economic thought and Marx's idea of future society within the long-time European tradition of the theory of justice. First, we extract Bentham's claims related to the subject here and try to situate him in the negative justice tradition. Secondly, we pick up how Marx evaluates Bentham as a representative of the ideologue of early capitalist society. Thirdly, we analyse Marx's idea of the principle of distributive justice in his Critique of Gotha Programme (1875) in order to find whether Marx has anything left to contribute to the understanding of contemporary circumstances at the beginning of the new century.

2 BENTHAM AND THE NEGATIVE JUSTICE TRADITION IN WESTERN SOCIAL SCIENCE

2.1 Negative Justice Tradition in Western Social Science

Unlike the case of research on the greatest happiness principle, there has not been much discussion regarding what Bentham thought about justice. In fact, Bentham did not refer to the concept of justice in any great deal, and had never clearly defined the term of justice in his published books. P. J. Kelly, in his detailed book Utilitarianism and Distributive Justice: Jeremy Bentham and the Civil Law, presents the first full-length and systematic defense of Bentham's theory of justice by claiming that 'Bentham had a utilitarian theory of distributive justice which was developed in the Civil Law writings' (Kelly 1990: p.39), and that his distributive justice tried to 'reconcile[s] an individual's pursuit of his own ends with the pursuit of the maximum social well-being' (Kelly 1989: p.66). This is a challenge to the received interpretation that Bentham's idea shares much with classical laissez-faire theory without any positive theory of distributive justice, and that Bentham tends to plan a collectivist or authoritarian regime by his principle of the greatest happiness as a moral criterion in policymaking. Kelly's claim is so deeply concerned with the western tradition of the theory of justice that it would be better to survey it first.
The idea of justice has been discussed in the manner of the Aristotelian language originally given in book five of *Nicomachean Ethics* (Aristotle 1934: 253–323). Aristotle introduces three kinds of justice for distribution and transactions in a community. First is distributive justice. This justice is the principle according to which an apportionment of public goods can be made in accordance with each member’s different personal value or the degree of contribution to a community. He names this result situation ‘geometrical proportion’ as a qualitative standard for the distribution of public or common goods. Second is corrective justice, which operates in private transactions or contracts. Aristotle shows a quantitative standard for this justice with the name ‘arithmetical proportion’, which means the exchange of equivalent and equivalent. Then he introduces the third justice, retributive justice, for the more practical case of private transactions such as the barter of different kinds of commodities. For this justice, ‘geometrical proportion’ is required. For instance, the exchange ratio of commodities A and B is to be determined firstly in accordance with each maker’s different social evaluation or the degree of contribution to the community as with the case of distributive justice. Secondly, A is going to be exchanged for B in equal value as with the case of corrective justice. Consequently, both makers’ retribution prove to be realised in accordance with their values or the grade of contribution. In other words, ‘geometrical proportion’ in man-to-man relation proves to be completed by the realizing process of ‘arithmetical proportion’ in commodity-to-commodity relation.

Following the time of Albertus Magnus’s and Thomas Aquinas’s commentaries of this theme, justice has usually been divided into (a) distributive justice and (b) commutative justice, although Aristotle himself wrote of retributive or corrective justice instead of commutative justice. While distributive justice is applied for public goods, commutative justice, on the contrary, is to be taken as a fair exchange in private contracts or commercial transactions, which have nothing to do with the personal worth of the individual agents concerned. In addition, it should be noted that distributive justice implies positive value judgment with a certain or sometimes an absolute measure by the authority of a community, while commutative justice requires only formal propriety or ‘fairness’ in the context of man-made rule (Baldwin 1959; Arie 1990: Chs. 1, 2).

In the continental natural jurisprudence tradition, through the accepting process of Roman Law, it was not distributive but commutative justice that had already been one of the key concepts of civil law by the beginning of the seventeenth century. Not only Grotius but also Pufendorf placed the principles of contract law as being the foundation of a system of positive law, which implied as fundamental the role of commutative justice in a society. The important thing was that both of them tried to distinguish between legal and moral propriety by relegating distributive or attributive justice to the category of ‘imperfect right’, which was not commanded by law. In other words, the subject of distributive justice (i.e., property transfer from the rich to the poor) was removed to the realm of the moral world that should be outside of law (Hont and Ignatieff 1983: 29–34).

In the eighteenth century, Scottish thinkers like Hutcheson, Hume and Reid also treated commutative justice as a fundamental rule for property-based civil society, which was thought to be composed of people possessing equal rights; or, as Reid said, ‘Commutative Justice is employed in the Ordinary affairs between Man & Man considered as on a footing of equality’ (Haakonssen 1990: 138). Following this tradition, Smith was aware of the distinction between distributive and commutative justice and also regarded justice not a kind of positive virtue like beneficence, but as the foundation of society. He said, ‘Justice... is the main pillar that upholds the whole edifice. If it is removed, the great, the immense fabric of human society... must in a moment crumble into atoms’ (Smith 1976: 86). This justice undoubtedly, is a negative virtue ‘which has traditionally been called commutative justice’. (Haakonssen 1981: 99). Smith wrote it more clearly:
There is, no doubt, propriety in the practice of justice, and it merits, upon that account, all the approbation, which is due to propriety. However, as it does no real positive good, it is entitled to very little gratitude. Mere justice is, upon most occasions, but a negative virtue, and only hinders us from hurting our neighbour.

(Smith 1976: 82)

This quotation above is, in a sense, thought to be a typical expression of liberal individualism, which would be connected to J.S. Mill’s *Harm Principle* or the Nozickean concept of minimal state (Nozick 1979). For Smith, the less justice was required to function, the more proper the state of society became. This point of view was symbolised in the following famous phrase, “We often fulfil all the rules of justice by sitting still and doing nothing” (Smith 1976: 82). In other words, Smith considered that a modern commercial society could be sustained, on the condition that only a minimum of negative virtue, or *commutative justice* as a social rule, be exercised. In this sense, it would be said that *commutative justice* had almost lost a normative character. It was this *bourgeois justice* that Marx was confronted with.

2.2 Bentham’s Position in the Negative Justice Tradition

As for Bentham, who owed a lot to Smith’s *Wealth of Nations*, the following facts are common knowledge. He wrote the *Penal Code* as a fundamental component of his science of legislation. Its key word was sanction. This implies that the main purpose of legislation for Bentham was to prevent certain activities undertaken by people that might be harmful to other people’s activities for seeking happiness (IPML). This idea of the confined role of legislation is almost proportional to negative or *commutative justice*, which is a suitable minimum rule for commercial society. In this sense above, it is possible to say that Bentham follows the tradition of negative justice.

Bentham, however, at the beginning of the ‘Principle of the Civil Code’, wrote as follows:

In his distribution of rights and obligations, the legislator, we have already said, should have for his object the happiness of the body politic. In inquiring more particularly in what this happiness consists, we find four subordinate objects...


What do we think about this in the negative justice tradition? Certainly, Bentham uses an Aristotelian manner of language in the subject above. Since rights and obligations, or subsistence, abundance and others are not commodities in an ordinary commercial transaction that is motivated by individual self-interest, Bentham treats them as abstract common/public goods without material forms like Aristotle did in *Nicomachean Ethics*. In other words, this treatment implies that the dimension of matter of distribution is relatively different from that of the matter of pain and pleasure among individuals in the community. The former is going to be regulated by the legislator with certain moral judgement in a certain time. Therefore, there is the fact that Bentham literally connects justice with benevolence. He says, ‘Justice is beneficence: in the cases in which the non-performance of it is considered as punished or punishable by the force of one or other of the several sanctions: principally the political, including the legal, and moral or popular’ (Works X, p. 51). It should be noted here that Bentham always refers to justice or the distribution of non-commodity things such as rights, and obligations with sanctions, while Aristotle treated justice as a virtue. At the same time, some kind of occasional intervention by a learned legislator is commonly presupposed by these two thinkers. This would lead us to think the matter of justice or distribution
to be positioned in an auxiliary agenda for arranging the proper condition of Bentham’s individual-based economic world, because sanction-based intervention will never be enforced, while normal social activities are regularly and properly operated. Therefore, it is reasonable to suppose that Bentham thinks of the distribution of property or income neither as a problem of a positive right based on positive law, nor as that of people’s spontaneous activity, but as political agenda. This agenda is decided by utility or expediency. We can then say that Bentham is still in the tradition of negative justice.

A good example of this is a case of poor relief. According to Bentham’s draft of an essay on the Poor Laws (1796), he thought of poor relief as being a practical agenda that was characterized as ‘expediency’, not as an issue of positive right based on laws of property, nor as a problem of natural right, and not as conventional charity. Although relief is an issue of the redistribution of income in terms of economy, he did not treat it through a result of systematic analysis of economic policy, but started to claim a certain kind of moral judgement and utility of society as a whole.

In a civilized political society, it is neither consistent with common humanity, nor with public security, that any individual should, for want of any of the necessaries of life, be left to perish outright. ... None should be left to starve outright.

(UC 153a, 25)

As seen above, at first this is just an expression of typical common sense morality to excessive poor condition, which does not have direct a relationship to people’s activities based on pain and pleasure. But, secondly, Bentham considered poor relief as a problem of the security of a community, which is one of the subordinate objects of policy. Also, Bentham could justify the policy of the redistribution of income with his theory of (marginal) utility. Utility for the same amount of money for the poor is greater than that for the rich, so that gross utility would increase and it would go forward in the direction of security, if the proper redistribution policy was adopted. All these rational treatments are not based on positive justice that contains strong a priori value judgement such as the traditional notion of distributive justice. If Bentham thought of the problem of income distribution as a prior policy, he should have suggested something systematic in terms of economic policy.  

A similar kind of example was one of the most famous plans for poor relief put forward by Bentham. It was the National Charity Company, which was to be organized as a joint stock company similar to the East Indian Company. According to his scheme, the company should gain profit upon the base of ‘the principle of economy’ (UC 153b, 267–268). This would imply that Bentham basically sustained the idea of free economic activity as being the best way for promoting wealth, even in cases where government intervention was usually thought to be preferable.  

This view on economic activity is closely related to Bentham’s assumption of human character. He declares natural selfishness before suggesting ‘Securities for Moral Aptitude’:

Considered with relation to the business here in question, moral aptitude is a negative quality: it is constituted by the absence, in so far as possible, of a certain propensity universal in human nature. This propensity in the breast of each individual is the propensity to sacrifice all other interests to that which at each moment appear to him to be his own preponderant interest: to obtain happiness for himself to whatsoever amount by so doing, he abstracts or withholds it from all other individuals.

(Bentham 1989: 13)
This *homo economicus*—like human character is called ‘market man’ by Macpherson (1985: 42) in the context of the account of liberal democracy. In short, there is considerable validity in raising the concept that explicitly normative judgement does not play an essential role in Bentham’s society, as far as its theoretical structure is concerned. Instead, hedonistic human beings, methodological individualism, utility and negative justice are common components of Bentham’s not only economic but also political world. In this sense, Bentham was quite likely to be thought of as a protagonist of newly emerged capitalist society.

3 MARX ON BENTHAM

Marx rarely referred to Bentham in his all writings, including his enormous amount of letters to Engels. However, the manner of Marx’s treatment of Bentham is quite consistent in terms of his characterisation of Bentham as a symbol of the modern capitalist society that is based on private property and free economic transaction by equal economic agents. The most well-known phrase in *Capital* is as follows:

This sphere that we are deserting, within whose boundaries the sale and purchase of labour power goes on, is in fact a very Eden of the innate rights of man. There alone rule Freedom, Equality, Property and Bentham. Freedom, because both buyer and seller of a commodity, say of labour power, are constrained only by their own free will. They contract as free agents, and the agreement they come to, is but the form in which they give legal expression to their common will. Equality, because each enters into relation with the other, as with a simple owner of commodities, and they exchange equivalent for equivalent. Property, because each disposes only of what is his own. And Bentham, because each looks only to himself. The only force that brings them together and puts them in relation with each other, is the selfishness, the gain and the private interests of each. Each looks to himself only, and no one troubles himself about the rest, and just because they do so, do they all, in accordance with the preestablished harmony of things, or under the auspices of an allshrewd providence, work together to their mutual advantage, for the common weal and in the interest of all. (Marx 2001g: 186)

As seen above, Marx tried to characterise capitalist economy by analysing its abstract form as the process of simple commodity circulation founded by private property. In this situation, there are socially equal individual economic agents who can buy and sell their commodities freely amongst each other under the contract of exchange. Individuals in this process are motivated by selfishness. Then all things reach a harmonious state. Therefore, Marx came to point out the relationship between political economy as a new science, utility and Bentham as follows:

As a special branch of science [political economy] it absorbed the other relations — political, juridical, etc.— to such an extent that it reduced them to economic relations. But it regarded this subordination of all relations to itself as only one aspect of these relations, and thereby allowed them for the rest an independent significance outside political economy. The complete subordination of all existing relations to the relation of utility, and its unconditional elevation to the sole content of all other relations, occurs for the first time in Bentham’s works, where, after the French Revolution and the development of large-scale industry, the bourgeoisie is no longer presented as a special class, but as the class whose conditions of existence are those of the whole society. (Marx 2001b: 412-413)
Marx famously cursed Bentham that, 'Had I the courage of my friend, Heinrich Heine, 'I should call Mr. Jeremy a genius in the way of bourgeois stupidity' (Marx 2001g: 605): and that, 'Classical economy always loved to conceive social capital as a fixed magnitude of a fixed degree of efficiency. But this prejudice was first established as a dogma by the arch-Philistine, Jeremy Bentham, that insipid, pedantic, leather-tongued oracle of the ordinary bourgeois intelligence of the 19th century.' (Ibid.) This evaluation of Bentham seems compatible with Marx’s early critique of the alliance of utility theory and economics that, ‘The economic content gradually turned the utility theory into a mere apologia for the existing state of affairs, an attempt to prove that under existing conditions the mutual relations of people today are the most advantageous and generally useful. It has this character among all modern economists’ (Marx 2001b: 413-414).

According to the introduction of Marx on Bentham above, it would be natural to assume that Marx thinks there should be something wrong or unjust going on in the capitalist society with the appearance of harmony veiled by the equal contract between labourers and capitalists. According to Marx, Bentham was, then, thought to be a contributor of this covering up by making an alliance of utility and economics that was rather similar to the neo-classical characterisation of Bentham, and thought to be a follower of the negative justice tradition and property-based liberalism. We need to know what is going on more clearly and what the state of justice is for Marx next.

4 CAPITALISM AS AN UNJUST ECONOMIC SYSTEM

For Marx, it was almost self-evident truth that capitalist society is an unjust society from the definition of capitalist’s profit that derives from unpaid labour of the working class. However, there are some difficulties in reviewing Marx’s idea of justice. This is firstly because of the fact that Marx himself did not seem to think much of justice in the whole works of his writings, including letters. Marx scholars, therefore, have been quite likely to neglect it or to interpret it freely and often improperly by reading just the limited texts. In fact, Marx mentioned the ideal principle of distribution for future society only once in Critique of the Gotha Program (1875). Therefore, this paper will examine the Program to confirm how Marx tried to propose a new principle against the bourgeois standard of distribution in capitalist society.

Secondly, difficulties are raised from some scholars’ negligence of Aristotle’s significant effect on Marx’s idea of justice. Therefore, they have often misinterpreted Marx’s intention or overlooked what justice Marx tried to attack, though they have characterised him as one of the most radical critics of the problem of unequal distribution of income or goods in capitalist society. This paper, then, will trace the Aristotelian tradition of justice in western scholarship and confirm that Marx’s target was negative justice, or commutative justice.

The third reason for difficulty is that the historical collapse of the Berlin Wall and the decline of Europe’s communist states have accelerated the chaotic situation of the scholarship of Marx, particularly of Marxist political theory and economics. Although it has for a long time focused on Marx’s radical critic of liberalism, individualism, utilitarianism, and bourgeois right by his labour-oriented philosophy, the recent newly emerged stream of analytical Marxism excludes the labour theory of value for the proof of ‘exploitation’. Another example is that some apologetic Althusserian attempts of revitalising Marxism, for instance, do not yet seem successful in providing a new plausible agenda. We can even find the declaration of ‘the end of Marxism’ (Aronson 1995: vii) or ‘multiple Marxes’ (Carver 1998: 234) after the years of ‘crisis’. The situation is worse in Japan where there was and still is the world’s largest number of traditional Marxists who have been reading Capital like the Bible. It is not an easy task to extract something plausible and consistent on Marx’s idea of justice from Marx scholarship of the last two decades.
The subtitle of *Capital* is 'A Critique of Political Economy'. Its implication is that Marx attacks 'The Trinity Formula' (Marx 2001h: 801) that symbolises the harmonious appearance of three classes: capitalists, landowners and labourers portrayed in the classical political economy. The three of them live peacefully together by receiving profit, rent and wages as compensation for each contribution to the production of commodities. Contrarily according to Marx's account, in reality, the wage-relation between capitalists and workers hides the exploitation of workers' part of working time without any compensation. Marx, then, absolutely insists that he reveals the 'secret' of the capitalist way of expansion as follows in *Capital*: 27

Capital, therefore, is not only, as Adam Smith says, the command over labour. It is essentially the command over unpaid labour. All surplus value, whatever particular form (profit, interest, or rent), it may subsequently crystallise into, is in substance the materialisation of unpaid labour. The secret of the self-expansion of capital resolves itself into having the disposal of a definite quantity of other people's unpaid labour.

(Marx 2001g: 534)

We can find another account that Marx clearly wants to target the system of deception by impeaching 'Freedom, Equality, Property and Bentham' (Marx 2001e: 186). Marx indicates the four major characteristics of the world where 'the sale and purchase of labour power goes on' (Ibid.). Freedom means the fact that both agents with free will of wage-contract are just a buyer and a seller of a commodity, or labour power. Equality implies that they confront each other just as commodity owners and exchange equivalent for equivalent, that is, the realization of *commutative justice*, as indicated above. Property means that everybody can 'dispose only of what is his own' (Ibid.). Bentham is thought to be responsible for the identification of private and general interest by his utilitarian felicitous calculation. He is also symbolised as a protagonist of the eternal harmonised bourgeois society based on the self-interest-motivated transactions.

To put the assertion above more theoretically, Marx tries to characterise capitalist economy by analysing it in abstract form as the process of simple commodity circulation founded by the private property system. In this situation, there are socially equal individual economic agents who can buy and sell their commodities freely amongst each other under the contract of exchange. Individuals in this process are motivated by selfishness. It would be natural to assume then that Marx thinks there should be something wrong or unjust going on in the ordinary social process with the appearance of harmony masked by the free and equal contract between labourers and capitalists. The point of Marx's core critique of capitalism is that there is an unequal exchange of quantity of labour under the veil of the equal exchange of labour power and its wages. This is the exploitation problem. To use the Aristotelian terminology, *distributive justice*, or the exchange in accordance with endowed labour-quantity does not realise itself under the surface of *commutative justice*, or appearance of the exchange of equivalents, that is, labour and wages. All these things so far make it clear that Marx judges capitalism to be unjust.

On the other hand, it is well known that Marx values the capitalist economic development by applying the theory of historical materialism derived from the Hegelian philosophy of history. In this theory, capitalist development itself creates the conditions that lead to the emergence of the new, higher and developed stage. It is worth mentioning, in passing, that some of Marx's historical views stemmed from the idea above. First is his view on development as it is the result of 'the great civilizing influence of capital' (Marx 2001d: 336). Second is, however, that the existing social system is not stable and comes to be an obstacle to human development. This is the case of the capitalist society. Then, third is, theoretically, that not only capitalist-labourers relations but
present human nature, culture and even law, on the whole, are relative or progressively changeable depending on newly created conditions and basis, or the mode of production.¹⁹)

In addition, it is useful to say here that Marx’s claim above implies a couple of critical viewpoints against contemporary theories.²⁰) First, Marx opposes universalism not only on capitalist society but also on human nature. Marx writes about changeable human nature, ‘By...acting on the external world and changing it, he at the same time changes his own nature’ (Marx 2001g: 187). Second, Marx separates himself from liberal individualism by emphasising the communal nature in the production process. He says, ‘In order to produce, they enter into definite connections and relations with one another and only within these social connections and relations does their relation with nature, does production, take place’ (Marx 2001d: 211). Third, Marx is not allied to the scholarship of mere recognition, but claims the necessity of practical action that leads to make actual subjective and social factors indispensable for social science. Marx’s famous aphorism says, ‘The philosophers have only interpreted the world in various ways; the point is to change it’ (Marx 2001c: 5).

Marxism, thus, provides a radical critique of utilitarian neo-classical assumption of the eternal human being of *homo economicus*. It can also make some objections to the oversimplification in Rawlsian theory that focuses just on consumer utilities in the market place with a negligence of production; that overlooks the existence of class-relative judgement; that ignores the cohabitation with totally different members in society who have incommensurable value standard; that does not show any transition mechanism from current society to the expected well-ordered society.²¹)

Having made this point that Marx has negatively valued the capitalist economy again, we must return to the main subject: that of how Marx tries to propose the new principle of distributive justice.

5 MARX’S IDEAL PRINCIPLE OF DISTRIBUTIVE JUSTICE

Marx’s *Critique of the Gotha Programme* (1875) exceptionally tries to answer the distribution problem in future society. Marx firstly shows the distribution principle at the first stage of communist society, then proceeds to the higher stage: ‘to each according to his contribution’ in the lower, ‘to each according to his need’ in the higher (Marx 2001e: 87). I wish to show a plausible and consistent interpretation of Marx’s idea by applying the Aristotelian terminology of justice indicated above, while some scholars still show confusing remarks without reference to Aristotle (See footnote 9). Let us consider the following quotation.

What we are dealing with here is a communist society, not as it has developed on its own foundations, but on the contrary, just as it emerges from capitalist society, which is thus in every respect, economically, morally and intellectually, still stamped with the birth-marks of the old society from whose womb it emerges. Accordingly, the individual producer receives back from society —after the deductions have been made —exactly what he gives to it. ... he draws from the social stock of means of consumption as much as the same amount of labour costs. The same amount of labour that he has given to society in one form he receives back in another.

(Marx 2001e: 85-86)

The essence of the distribution principle here, as Marx himself says, is ‘the same principle prevails as in the exchange of commodity-equivalents: a given amount of labour in one form is exchanged for an equal amount of labour in another form’ (*Ibid*. 86). From the Aristotelian viewpoint, it is almost self-evident that the lower level principle of distribution is, to rather an extent, considered as *retributive justice*. If we think of it as the exchange
of the quantity of labour for commodity, this is the simultaneous realization of both the equal quantitative exchange and the exchange proportion to each member’s value. Therefore, both the ‘arithmetical proportion’ based on the equal exchange of commodity and the ‘geometrical proportion’ based on different personal values, are properly realised at the same time. In other words, the latter means compensation from society in proportion to each personal contribution grade to society. Some Marx scholars’ confusion or misunderstanding is due to their negligence of the Aristotelian language in Marx, or due to the confusion of the classical conception of *distributive justice* and that of today’s. The former is unequal distribution from its definition with a certain standard imposed by the authority, while the latter word of distributive justice does not always assume inequality.

Marx opposes the contribution principle, or the ‘geometrical proportion’ because it does not meet the real necessity of contributors whose living conditions are different. Marx evaluates this situation as still unequal and therefore unjust by saying that ‘equal right here is still in principle — bourgeois right’ (*Ibid.*: 86). As far as the claim of each individual for consumption goods is counted by the unequal contribution of the different quantity of labour, there remains real inequality in spite of the realization of the equal exchange, or the establishment of ‘arithmetical proportion’.

Marx goes up to the higher stage of the communist society. He shows the final principle of distribution:

> [A]fter the enslaving subordination of the individual to the division of labour, and thereby also the antithesis between mental and physical labour, has vanished; after labour has become not only a means of life but life’s prime want; after the productive forces have also increased with the all-round development of the individual, and all the springs of common wealth flow more abundantly... only then can the narrow horizon of bourgeois right be crossed in its entirety and society inscribe on its banners: From each according to his abilities, to each according to his needs!

(*Ibid.*: 87)

Here, Marx rejects the former principle that each individual producer receives back the equivalent from the society in proportion to what he contributes or supplies in the form of labour. Instead, each individual can receive in proportion not to his/her contribution but to his/her needs. The quantity of contributed labour, now, has nothing to do with the distribution process. The contribution principle has transformed into the needs principle. This situation is almost similar to the Aristotelian *distributive justice* for the distribution of public goods, that is with ‘geometrical proportion’ without ‘arithmetical proportion’. Marx seems to think of it as the establishment of true equality.

The point is that the higher stage of the communist society is an ‘unequal society’ with various differences in the members’ characters such as the needs of goods, the capability of activity, the strength of desire and so on. However, what kind of society is this higher stage actually in terms of economy? Logically, this is the society where there is no restriction of consumption of goods or resources against all members’ needs or necessity and where labour seems to be not related to distribution. Nevertheless, Marx still keeps the reciprocal relation between labour and goods, while he rejects the quantitative relation between them. Each individual member is still required to make a labour contribution for claiming the right of the supply of necessities. Surely, the higher stage of communism is a kingdom of labourers. We have returned to the problem of labour in Marx’s whole system.

It is not unreasonable to suppose that Marx’s concept of the principle of distributive justice implies the
following. First, his image of future productive power is quite optimistic and seems limitless. Second, labour contribution that entitles the member of a society to a claim of distribution reflects Marx's particularly strong evaluation of labour with ethical and philosophical significance. Third, Marx’s labour-based principle of distributive justice seems to have a close relationship with his basic idea of labour as the substance of value in his labour theory of value. 

6 CONCLUSION

The increasingly complex character of contemporary capitalism with globalisation has led us to re-examine the classical ideas of society, economy and human beings. The question of justice, or particularly that of distributive justice, is one of the fundamental issues that all countries face today. Reviewing Bentham's and Marx's ideas of justice certainly gives us an opportunity to rethink the contemporary problems. Then what can we learn from this?

According to Shand (1990: 64), utilitarianism has appealed to many economists because of its 'engineering' approach. Utilitarianism, actually, is thought of as getting its great victory in economic science in calculative analysis in which all values, worth and goods are reduced to a common measure and counted in a certain way. Secularisation has been completed, then 'modern economics has been substantially impoverished by the distance that has grown between economics and ethics' (Sen 1987: 8). In A Theory of Justice (1971), Rawls begins his argument with a critique of utilitarianism in saying that it does not take seriously the difference between individuals and he claims the necessity of the protection of certain basic rights of the individual in any society. This claim of rights has been insisted on by many political philosophers. So did Marx, in his particular way, but he failed to show labour-based claim theory for gaining necessities in logically consistent theory. Bentham, to some extent, might have responsibility for such a bad reputation of utilitarianism.

To return to the problem of distributive justice, however, the contemporary world does not find a well-accepted standard. The allies of utilitarianism and economics still seem firm. The only way to find the exit might still be somewhere between utility and rights.

We see firstly distributive justice requires, from its definition, whether classical or contemporary, a certain kind of commonly acceptable moral criterion, and may require the authority that implements it. Secondly, as for Marx, labour keeps playing an indispensable role in his social theory including the distributive principle in the predicted communist society. Needless to say, labour-based Marxian human nature is too simple to cope with the contemporary world. Lastly, if distribution is the economic issue, the expected new principle of distributive justice should be the combination of economics and ethics in reply to Sen's warning that 'modern economics has been substantially impoverished by the distance that has grown between economics and ethics' (1987: 7).

Notes

1) This paper was first prepared for the 7th International Conference of the International Society for Utilitarian Studies at Culturgest in Lisbon, Portugal on 'Utilitarianism, Human Rights and Globalization', 11-13 April 2003.

2) There is just one entry of 'justice' in the catalogue of UCL manuscripts (Milne 1962: 82).

3) In this equal value exchange, the number of each commodity is different, such as one hundred shoes equal to one house. Here, the value of a carpenter is one hundred times as big as that of a shoemaker. See Rackham's account in Aristotle (1993: 282).

4) On the problem of the Latin translation of subdivided particular justices in Nicomachean Ethics, see Ritchie (1894: 188)
and Baldwin (1959: 11, 62).

5) After the rise of the civic humanist paradigm in the 1970s, Smith has often come to be characterised as a moral philosopher of the eighteenth century or even as a severe critic of the free market economy rather than a founder of the idea of economic liberalism. Typical works are Winch (1978), Dwyer (1987) and Pack (1991). As for economic justice, Witztum challenges the received interpretation of negative/commutative justice expressed by Smith. He insists, ‘Separating distributional considerations from Smith’s idea of justice is not an appropriate interpretation of his work’ (1997: 259). To respond to such an idea is beyond the scope of this paper.

6) Bentham never expresses the promotion of positive moral activity or casuistry-like instruction in the codification of penal law. We should think about the meaning of the position of sanction that stands in the center of Bentham’s scheme of civil law.

7) In a sense, Bentham’s treatment of the redistribution of income/wealth might be called a compromise between sponte-acta and agenda (intervention).

8) Arie (1991) once tried to show an economics-based interpretation on this point.

9) Marx referred to Bentham in terms of two major points. The first is that Marx took Bentham to task for his first formulating the dogma of wage-fund theory in *Capital* (Marx 2001g: 605–606) together with the names of Malthus, James Mill and MacCulloch where Marx added the footnote saying ‘Compared among others, Jeremy Bentham, Théorie des peines et des recompenses, traduct. d’Et. Dumont, 3ème edit. Paris, 1826, t. II, L IV, ch. II’ (*Ibid.*, 606). The second is that Marx less estimated Bentham than Helvetius in terms of the originality of utilitarian ideas, though he put Bentham in the stream of British socialism by saying ‘Bentham based his system of correctly understood interest on Helvetius’ morality, and Owen proceeded from Bentham’s system to found English communism’ (Marx 2001a: 131). These two are confirmed by other quotations, such as ‘The principle of utility was no discovery of Bentham. He simply reproduced in his dull way what Helvetius and other Frenchmen had said with esprit in the 18th century’ (Marx 2001g: 605) and Engels’s claim of ‘Though Bentham has a school within the Radical bourgeoisie, it is only the proletariat and the Socialists who have succeeded in developing his teachings a step forward’ (Engels 2001: 428).

10) Chapter 5 and a part of Chapter 3 are reedited and published in the title of ‘Marx and Distributive Justice’ in Uchida (2005).


12) Marx briefly mentions justice at the place where he scorns Proudon’s ideal of justice. Marx only makes a fool of Proudon’s abstract argument of ‘eternal justice’ that lacks actuality (Marx, 2001d: 96).


14) Other representative and related works on Marx’s idea of justice before 1989 are Miller (1975), Cohen, Nigel and Scanlon (1980) and Buchanan (1982). Lukes (1982) introduces some positive factors in Marx’s moral system such as self-realization in community, freedom over alienation and the maximization of welfare, though he also questions the plausibility of Marx’s account of them. Kain (1988), from the viewpoint of the Kantian and the Aristotelian ethical theory, carefully but optimistically traces the development of Marx’s ethical thought to the direction of spontaneously transcendent morality and points out some logical inconsistence between individual and community.

16) Japan is the only developed country where the introduction of Marxian economics is taught as a prerequisite subject in the majority of universities. Its content is still catechism like Capital reading. Therefore, little attention has been given to the point. The exception is Arie (1990).

17) Marx's declaration here is located at the very end of Part V of Capital titled 'The Production of Absolute and of Relative Value' where Marx's account of the 'secret' of capitalist production finishes.

18) I think putting Marx's idea of justice in the Aristotelian tradition is the only way for its consistent and plausible interpretation. If I am right, some controversies introduced in footnote two were unnecessary. Marx himself characterises the unjust situation as follows, 'capital obtains this surplus labour without an equivalent, and in essence it always remains forced labour, no matter how much it may seem to result from free contractual agreement' (Marx 2001g: 806).

19) There is space for no more than an indication of the relationship between Marx's philosophy of history and justice here.

20) For this part, I owe a lot to Sayers (1998), Gamble et al. (1999).

21) On the objections to some Rawlsian theory, I extracted some of them from Buchanan (1982: 122).

22) This needs principle excludes nominal equality based on commodity exchange. That is why Castoriadis says, 'In fact, essentially, his response in the Critique of the Gotha Program is only a paraphrase of a certain passage in the fifth book twenty-two centuries later'. (1978: 718). On Marx in Aristotelian tradition, see Dognin (1958). Although detailed philosophical discussion on the definition and the relationship between 'need', 'desire' and 'want' is required, I have space for no more than an indication of the following related contributions such as Ignatieff (1984), Braybrooke (1987), Thomson (1987) and Doyal and Gough (1991).

23) Singer comments on this plan of Marx as 'optimistic' and 'Everything Marx says about communism is premised on material abundance' (1980: 64, 65).

24) This evaluation might be common knowledge in the scholarship of the history of economic theory. Blaug concluded that the whole system of Marx's economics depends on 'the philosophical significance of labour cost' (1958: 38), and Backhouse says Marx's labour theory lay in its 'ideological' and 'ethical' implication (1985: 122). Elson (1979) once characterised Marx's value theory as 'Value Theory of Labour'. See also Hollander (1979: 263).

Reference


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