

Contemporary Philosophy: A New Survey

Guttorm Fløistad *Editor*

# Philosophy of Justice

 Springer

# Philosophy of Justice

Institut International de Philosophie

# La philosophie contemporaine

*Chroniques nouvelles*

*par les soins de*

GUTTORM FLØISTAD

*Université d'Oslo*

Tome 12

Philosophie de la Justice

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International Institute of Philosophy

# Contemporary Philosophy

*A New Survey*

*edited by*

GUTTORM FLØISTAD

*University of Oslo*

Volume 12

Philosophy of Justice



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# Preface

The present volume is the last of the series *Contemporary Philosophy*. As with the earlier volumes in the series, the present chronicles purport to give a survey of significant trends in contemporary philosophy.

The need for such surveys has, I believe, increased rather than decreased over the years. The philosophical scene appears, for various reasons, more complex than ever before. The continuing process of specialization in most branches, the increasing contact between philosophers from various cultures, the emergence of new schools of thought, particularly in philosophical logic and in the philosophy of language and ethics, and the increasing attention being paid to the history of philosophy in discussions of contemporary problems are the most important contributing factors. Surveys of the present kind are a valuable source of knowledge of this complexity. The surveys may therefore help to strengthen the Socratic element of modern philosophy, the intercultural dialogue or *Kommunikationsgemeinschaft*.

So far, 11 volumes have been published in this series, viz. *Philosophy of Language and Philosophical Logic* (Vol. 1), *Philosophy of Science* (Vol. 2), *Philosophy of Action* (Vol. 3), *Philosophy of Mind* (Vol. 4), *African Philosophy* (Vol. 5), *Medieval Age Philosophy* (Vol. 6/1 and Vol. 6/2), *Asian Philosophy* (Vol. 7), *Philosophy of Latin America* (Vol. 8), *Aesthetics and Philosophy of Art* (Vol. 9), *Philosophy of Religion* (Vol. 10), *Ethics or Moral Philosophy* (Vol. 11).

The volumes are, for various reasons, of unequal length. The obvious shortcomings, especially of Vol. 5 on African and Arab Philosophy, have to some extent been compensated for in the volumes on Aesthetics (Vol. 9) and Religion (Vol. 10).

The present volume on *Philosophy of Justice*, containing 21 surveys, shows different approaches with a variety of interpretations (Greek philosophy, Muslim law, European and American philosophical justice).

The chronicles are as a rule written in English, French and German. In the present volume, 3 surveys are written in French and 18 in English. The bibliographical references, with some exceptions, follow the pattern introduced in earlier volumes. The bibliographies themselves usually follow at the end of each chronicle, arranged in alphabetical order. The bibliographies are selected and arranged by the authors themselves.

I am grateful to a number of persons who in various ways have assisted in the preparation of this new series. My thanks are first of all due to Ms. Kari Horn. Without her help, the volume would have been delayed. I am also most grateful to the Secretariat, especially to Ms. Catherine Champniers and Ms. Grace Frank, at the Institut International de Philosophie in Paris. They have done the final proofreading as well as put up the indices.

My thanks are also due to the Centre National de la Recherche Scientifique (Paris), and to the Conseil International de la Philosophie et des Sciences Humaines (UNESCO), and to the staff at Springer.

Oslo, Norway  
January 2014

Guttorm Fløistad

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# Introduction

Guttorm Fløistad

With the present Volume 12, *Philosophy of Justice*, the Chronicles Series has come to an end. With this volume we are moving into a sensitive and embarrassing field. The distance between word and action is still violating the basic rights of millions of people. Poverty has, of course, diminished, especially in Africa and Asia. However, in certain parts of the world, the United States and Europe included, the number of poor people have increased. According to the UN, the number of poor in the world has increased by 100 million people between 2008 and 2010. The Aristotelian notion of “distributive justice” has certainly been translated into practice through the centuries. Sometimes, however, it goes the wrong way. (See also f.inst. Fernand Braudel *Les structures du quotidien. Le possible et l'impossible*, Vol. I–III. Paris: Librairie Armand Colin, 1979).

What we have definitely lost is the belief that there are natural rights. This is the view that there are norms that may be regarded as laws, even if they are not authorized by the state or founded in customs. It is commonly agreed among most lawyers that any judgment should be sound and just both by interpreting the laws and by deciding questions of rights that are not solved by laws or prescriptions. These views must not be based on pure evaluation, but have as their source a knowledge of the fact that there exist norms of rights that have a different foundation than positive rights.

What then is the origin of natural rights? Some think that they have a divine origin: natural rights have their origin in religion. Moreover, religion gives natural rights their authority. The phrase “King of God’s grace” is well-known. In Sweden the phrase was in use up to 1973, according to Thorsten Eckhoff, professor of law at the University of Oslo, although it was long since an empty phrase. There is a painting of ancient times that shows how the sun-god handed law over to King Hammurabi some 2,000 years before Christ. And we all know the story of how Moses was handed the Ten Commandments on Mount Sinai. Such ideas of how the State and government have a divine origin are called “theocratic”.

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