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EDICIONES COMPLUTENSE

A classification of ethical harm[1]

Jesús Manuel Conderana Cerrillo[2]

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Abstract. This paper discusses a classification of types of harm linked to actions concerning (in)justice. Although the starting point is Aristotelian practical philosophy, in this research this perspective is extended and criticised. Once a first approach to the object of the study (the harm that results for others from the agent's action or omission) has been defined, a classification of the types of harm will be established. In doing so, it will be shown where Stagirite's proposition needs to be expanded, qualified, and even corrected. In particular, a commonly overlooked element will be highlighted: that the most perverse effect of an injustice is to make the one who commits it unjust.
Keywords: Aristotle; virtue; harm; justice; injustice; misfortune; wrong.

[es] Una clasificación del daño ético

Resumen. Este trabajo discute una clasificación de los tipos de daño vinculados a las acciones referidas a la (in)justicia. Aunque nuestro punto de partida es la filosofía práctica aristotélica, en esta investigación alargamos y criticamos dicha perspectiva. Una vez delimitado un primer acercamiento a nuestro objeto de estudio (los daños que se derivan para otros de la acción u omisión del agente), pasamos a establecer una clasificación de los tipos de daño. Al efectuar esta operación, mostramos en qué puntos debe ser completada, matizada e incluso corregida la propuesta del Estagirita. En particular, ponemos de relieve un rasgo que suele desatenderse: que el efecto más perverso de una injusticia es hacer injusto a quien la comete.
Palabras clave: Aristóteles; virtud; daño; justicia; injusticia; infortunio; equivocación.

Summary: 1. Definition of the object of study; 1.1. Notion of harm; 1.2. Four clarifications; 2. Harm as a matter of justice; 3. Harm as a matter of injustice; 3.1. Voluntariness and involuntariness; 3.2. Actions that are neither voluntary nor involuntary; 3.3. Involuntary actions and harm; 3.3.1. Misfortune (ἀτύχημα); 3.3.2. Error (ἁμάρτημα); 3.4. Voluntary actions and harm: injustice, τό ἀδίκημα; 4. Harm suffered by the person causing harm; 5. Bibliographical references.

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[2] Universidad Pontificia de Salamanca
jmconderanace@upsa.es

1. Definition of the object of study

The aim of this paper is to discuss a classification of the types of harm linked to (in)justice. In particular, attention will be paid to the Aristotelian remarks in *Nicomachean Ethics (NE)* V, 8[3], which will be critically reviewed.

The uniqueness of this research lies in the fact that it presents a complete classification of ethical harm. A review of previous research on this subject reveals some detailed studies, but no classification as such. The current relevance of this work is also to be highlighted.[4]

Harm will be classified according to the causes that provoke it. According to this criterion, there are two kinds of *events* in the world from which harm can arise: *occurrences* and *actions*.

"Occurrences" refers to events that have their origin in natural causes. These occurrences cause a type of harm that we will call a (physical) "wrong." Think, for example, of the harm caused by earthquakes or the harm caused to someone by a hereditary disease. Insofar as there is no personal character ascribed to Nature, these harms are not the object of this investigation (Fortanet, 2022, p. 12).

By "human actions" we mean everything that has the human subject as its *principle* or *condition*. I am a *principle* when the action or omission originates in me for me, for example, if I decide to go for a walk. I am a *condition* if I participate in what occurs insofar as I am a part of this world, for example when I hit someone by falling down. *Condition* implies the mere existence of a subject bound by the laws of the natural world.

Of all the human actions, we are here concerned with those that are related to harms linked to (in)justice. We call these actions "just" or "unjust."

On the subject of (in)justice, Aristotle warns at the beginning of Book V of the *NE* that "justice" and "injustice" are said in many ways, although with similar meanings[5]: this is the reason why the paronym of the terms "just" and "unjust" goes unnoticed. Unless their meanings and the relations between them are well distinguished, it will be very difficult to know what is meant when we say "just" or "unjust" in reference to harm, as will be seen in the course of this research.

There is certainly a nominal sense of justice (*NE* V, 1, 1129a 7-10), and there are also two relevant senses of "(in)justice": first, (in)justice as a particular virtue or (in)justice in the *strict sense* and, second, (in)justice as a general or universal virtue or vice, which is (in)justice in the *broad sense*.

(In)justice in the strict sense refers to (in)justice as a particular virtue (or vice), i.e., as a virtue (or vice) among the other virtues (or vices). This (in)justice can be divided into two categories: distributive (in)justice and corrective (in)justice. They are studied respectively in chapters 3 and 4 of Book V of the *NE*. They will not be explicitly discussed here, because, in what will be said, their consideration will be included.

Relevant to this work is the broad sense of justice, justice as a universal or complete virtue. Aristotle calls it so because it brings together the acts of the other

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3 Sir David Ross calls this chapter: *The scale of degrees of wrongdoing:* Aristotle (2009), p. 93.

4 This research is relevant in that it assesses the ethical implications of decisions in various fields, such as education, science, law, and AI.

5 *NE* V, 1, 1129a 27: σύνεγγυς, cf. Del Valle, 2020, pp. 8-16.

ethical virtues[6], i.e., the acts of the other ethical virtues are, in some sense, forms of justice (*NE* V, 1, 1129b 29-30; *NE* V, 2). Thus, he who abandons his comrades on the battlefield in order to save his life behaves unjustly towards them, even if his behaviour belongs, strictly speaking, to the vice of cowardice. This is because the acts of most virtues (or vices) involve the good or evil of others. Therefore, Aristotle defines (in)justice in a broad sense as the virtue (or vice) that refers to "the good and evil of others" (*NE* V, 1, 1130a 3-4).

As this research is concerned with types of harm, it will not concern itself here with actions in which only goods are involved. Such are relations of distributive and corrective justice in which there is an exchange or distribution of physical and non-physical goods, such as the provision of paid services.

This paper will therefore be restricted to relationships of (in)justice in which an evil for another is implied. But what is meant by "evil for another"?

1.1. Notion of harm

A distinction could be made between "harm" and "damage." *Harm* would imply a wrong that someone suffers positively to his person or property because of what another does or fails to do, e.g., someone who is beaten by another for no reason.

"Damage" occurs when someone does not receive a good that he deserves, e.g., the damage caused when an agreed good is not delivered.

Thus defined, harm is different and worse than damage to the extent that the *presence of evil* is worse than the evil implied by the *absence of good*. However, for the purposes of this paper, this distinction is not decisive. In the interest of conciseness and clarity, it will be omitted. Therefore, from now on "harm" will be the evil that results for another due to a certain action or omission[7].

1.2. Four clarifications

Four clarifications are necessary to fully define the object of our research. First, let us accept the Aristotelian thesis that it is not possible to be just or unjust to oneself in the strict sense. In a metaphorical sense, it is possible, insofar as a subject can relate to himself as another and, in this relation, consider two parties in which one "harms" the other, as when *my* fist hits *my* stomach (*NE* V, 11). If Aristotle is right, then, whenever one speaks of (in)justice in the proper sense, there must be *two physically different subjects (individuals or groups)* because there must be an agent and a patient who must be different, for the one who causes the harm and the one who suffers it must necessarily be different (*NE* V, 11, 1138a 20-21).

The second clarification would be that if an action or omission does not cause harm to another, then it is not unjust. These actions may involve other kinds of wrongs, but not harm. For example, envy of another cannot be called "unjust" if it does not cause harm to the envied person, even though it is an evil for the person who harbours it. If there is no harm, there is no injustice, because there is no victim. In this sense, offences against God are not injustices (Paddock (2020), pp. 30-32).

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6 *NE* V, 1, 1130a 9. With the exception of generosity which, by definition, cannot be "part" of justice.

7 This is a generic characterisation that we will clarify in our paper following the approach of Thiebaut, (2022).

Is this *always* the case? In the case of posthumous harm, such as the desecration of a corpse, or in the toppling of a statue, the deceased is certainly not harmed. Is the material damage the only crime? The Aristotelian perspective as Podhorski shows, seems rather to be that "such an action does not seek to harm the deceased, but what is known about him. This implies considering the political dimension of individual praxis. Desecration is an action directed against the political community" (Podhorski, 2022, p. 409). It is precisely in this sense that Aristotle agrees that attempted suicide should be punished, because this action harms the community, which suffers harm, and so this action is only seemingly individual (*NE* V, 11, 1138a 5-15). "A suicide acts unjustly toward the polis in a way analogous to desertion from an army"[8].

The third clarification is that injustice always involves harm to another, even though this harm may go unnoticed by the victim. While it is true that there is no harm if there is no victim, it does not follow that there is no harm if the victim does not experience it. If someone commits theft, that theft is harm, even if the victim is never aware of what was stolen. There is a victim because there is harm and there is someone who knows of that harm; the perpetrator, at least, may at some point repent, ask for forgiveness, and return what was stolen. Theft and robbery do not fall into the same category, however, both involve harm to the victim, whether the victim is aware of the harm or not.

For the fourth clarification, however, it is not true that, whenever there is harm, there is injustice, even if there is a victim. Aristotle formulates this thesis by pointing out that it is not the same thing to "suffer what is unjust as to be treated unjustly" (*NE* V, 9, 1136a 29).

To be treated unjustly requires as a necessary condition that someone treats unjustly (ἀδικεῖν), i.e., that someone commits an injustice in the proper sense (ἀδικία): that he voluntarily causes harm to another. This presupposes knowledge of the relevant circumstances of the action: knowing to whom, by what means, with what motive. This is the case, for example, of a person who publicly belittles someone.

However, if the action performed is not voluntary, then the harm caused to another is *unjust* (τὸ ἄδικον), but not an *injustice* (ἡ ἀδικία), for example, if I hit another car while reversing. In such cases, someone suffers that which is unjust, but does not suffer an injustice, even if there must be reparation of harm. Careful reversing cannot be termed an "unjust action." And yet, because I have been the *condition* of harm to another, it is up to me to make amends: as far as possible, I must apologise and compensate for the harm I have caused.

Moreover, one can suffer that which is unjust (τὸ ἄδικον) voluntarily (not an injustice, ἀδικία) because one can accept a harm *as a means* to an end, e.g., whoever consents to the public disparagement of his boss in order to keep his job. The fact that harm is *consented* to does not mean that what is consented to loses its status as harm. Consenting to someone's bad manners does not relieve them of their status as unjust (undue, unjustified). And this is because it is not possible to suffer an injustice (ἡ ἀδικία) voluntarily, because one does not simply accept harm for oneself.

Having thus clarified the definition of the types of harm under discussion, namely those that arise in relations in the field of justice and injustice involving two subjects (and, strictly speaking, only two): *an* agent and *a* patient, who must be *physically* distinguishable.

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[8] Suicide can also be an act of cowardice. This is not always the case, however, as there are suicides that merit understanding: Zavaliy (2019), pp. 320-327.

2. Harm as a matter of justice

Since "one can receive harm and suffer that which is unjust (τἄδικα) voluntarily, but no one is subjected to unjust treatment voluntarily (ἀδικεῖται δ' οὐδεὶς ἑκών), because no one wills it" (*NE* V, 9, 1136b 5-7; 11, 1138a 12), then, as we have already seen, whenever there is harm, there are two subjects. And where there are two subjects, relations of justice or injustice can be established. This implies that there are two *essentially* different kinds of harm: that linked to justice and that linked to injustice.

Let us now talk about harm in the context of justice. Harm can be done to another within the context of justice if the harm is justly done. The types of harm in this category are specified by the reasons that justify them.

(a) Harm is caused to *avoid* a wrong. A person does not act against justice if he causes harm to another for the *sole* purpose of *preventing* himself from suffering harm, to prevent another from suffering harm or to prevent someone from causing harm to others. Examples of these three classes are, respectively, one who acts in self-defence[9], one who defends another[10], and the action of the state in depriving an offender of liberty to prevent further offending.

(b) Harm is caused in order to *re-establish* a good (justice). Aristotle uses the term τὸ δικαίωμα for this case[11]. Here he is referring to an action of justice, in the sense of "redressing an injustice" (δικαίωμα δὲ τὸ ἐπανόρθωμα τοῦ ἀδικήματος: *NE* V, 7, 1135a 13). There are two cases which are dealt with by corrective justice (*NE* V, 4: τὸ διορθωτικὸν δίκαιον):

(b.1) To restore the balance prior to the injustice as far as humanly possible. For example, the payment of compensation for harm caused (*NE* V, 4).

(b.2) To impose a punishment (harm) on the unjust, specifically for having been unjust[12], on the understanding that an injustice, in addition to being redressed, must also be punished (*NE* III, 5, 1113b 30-32)[13].

3. Harm as a matter of injustice

Let us now deal with the harm that someone suffers involuntarily and that is caused by another who acts unjustly, (1) either in a proper sense, if he acts voluntarily, or (2) by accident, if he acts involuntarily (*NE* V, 9). It may also be the case that someone (3) suffers harm from someone who acts neither voluntarily nor involuntarily, because he is only a condition of the harm that another receives. These three kinds of harm are dealt with in *NE* V, 8.

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9 This does not imply that it is heroic to forgo self-defence. A person who *always* refuses to do harm to someone who causes harm or intends to cause harm is not wrong, as long as he is not responsible for defending the defenceless.

10 Or someone who injures another by pulling him out of the pit into which he fell.

11 Unlike the terms δικαιοπράγεῖν and the corresponding noun τὸ δικαιοπράγημα with which Aristotle refers to acting justly or to just action in the sense that the agent wants to do something positively just. For example, when rewarding those who have defended the city (distributive justice) or those who repay a loan (corrective justice), Contreras (2020), pp. 221-224.

12 He who has done something unjust without being unjust himself does not deserve punishment, but he must make reparation for the harm caused. For example, a person who hits another person's car when parking does not deserve punishment but must pay for the damage caused.

13 Blom (2025), pp. 103-104. Defending the latter assertion requires specific research, which may be helped by insights found in the literature, for example in the work "Les justes" of Albert Camus (2008).

From the above classification it follows that, for Aristotle, there is a direct relationship between the voluntariness or involuntariness of the agent's actions and whether they result in that which is unjust (τό δίκαιον) or injustice (ἡ ἀδικία, ἀδίκημα). For it is not the same thing to be trampled on by someone who acts carelessly, or by someone who steps on someone when a bus brakes, or by someone who tramples on purpose.

That is why Aristotle distinguishes (even terminologically) between what the agent does and what results for another from that action (*NE* V, 8, 1135a 15-23). That is why he points out that "to do what is unjust is not the same (τὸ τἄδικα πράττειν) as acting unjustly (ἀδικεῖν). "Nor is suffering what is unjust (τὸ ἄδικα πάσχειν) the same as being treated unjustly (ἀδικεῖσθαι)" (*NE* V, 9, 1135a 28-30). In the case where I tread on someone unintentionally, I do that which is unjust, but I do not act unjustly and, correspondingly, the one who is trodden on certainly suffers that which is unjust (τό ἄδικον), but he does not suffer an injustice (ἀδικία). The difference between doing that which is unjust (τὸ ἄδικον) and acting unjustly (ἀδικία) lies in the voluntariness of the one who acts. The type of harm inflicted thus depends on the type of voluntariness involved in the action causing the harm. It is therefore necessary, in order to clarify the types of harm, to briefly expound the Aristotelian theory of voluntariness in action.

3.1. Voluntariness and involuntariness

For the purpose of this paper, determining whether an action is voluntary or involuntary is of particular interest, since only fully voluntary actions cause unjust harm to others in the strict sense of the term (see number 3.4 below), because they manifest the vice of injustice. These actions are the properly unjust (ἀδικήματα). On the other hand, if the action that causes harm suffers from some kind of involuntariness, to that same extent, it will only materially cause harm to another, it will cause what is unjust (τι ἄδικον) by accident, but not an injustice (ἀδίκημα, 1135a 22). The agent does not make himself unjust by this kind of action.

Now then, an agent acts voluntarily (ἔκων) if he fulfils two conditions:

- It is in his power to do or not to do, as well as being able to do this or that, i.e., the subject is in control of his movements. Negatively put, he is not forced to do something (he is not pushed) or prevented from doing something (he is not held back).
- He knows, not ignores, *what* he is doing: he knows the relevant circumstances of the action (to whom, why, what for, with what).

Acts that fulfil these conditions are voluntary acts. There are two types of voluntary acts. Under the first type are acts that follow from deliberation. They are properly chosen acts, i.e., they spring from a *prior* deliberation (προελόμενοι μὲν ὅσα προβουλευσάμενοι: 1135b 10). The second type is the unchosen acts. They are also voluntary acts, though they do not spring from deliberation (ἀπροαίρετα δὲ ὅσ' ἀπροβούλευτα).

If either of the above two conditions is lacking, the agent acts involuntarily (ἄκων). There are thus two causes of involuntariness.

The first is force. We speak of forced actions if the principle of action is not in the subject's power and the subject contributes nothing to what happens (*NE* III, 1, 1110b 16-17). This would be the case when, for example, someone hits another because a third party has grabbed his hand (*NE* V, 8, 1135a 27-28), or someone who, swept by a storm, goes where he does not want to go. If the subject contributes something, then these are "mixed" actions, though more akin to voluntary ones (*NE* III, 1, 1110a 11). An example of the latter type is the action of the captain who throws the ship's cargo into the sea in order to save the crew.

The second cause of involuntariness is ignorance. "Ignorance", as with many terms in Aristotle, is employed in various senses. There are three kinds of ignorance, according to *NE* III, 1, 1110b 27-1111a 2.

First, *ignorance of the universal*. This is ignorance of the law (rule or custom), because the law concerns the universal. For example, one must know how to behave in a sanctuary or what customs to follow when arriving in a certain city because the legislators "also punish those who do not know something of the laws that must be known and is not difficult [to know]" (*NE* III, 5, 1113b 33-35). This ignorance is reprehensible, so it cannot be a cause of involuntariness, but neither is it properly a cause of evil, so long as it does not become a negligence that is a vicious habit, as in one who is of such a nature that he does not pay attention to what he ought to (1114a 3-4).

The second type is *ignorance of the circumstances of the action*. This type of ignorance warrants leniency and is a cause of involuntariness. A further qualification is necessary since a distinction can be made between actions performed *in* ignorance and actions performed *from* ignorance (*NE* III, 1, 1110b 25).

Actions performed *in* ignorance. The subject acts in ignorance if he is not culpably unaware of the circumstances of the action, i.e., *if he is not responsible for his own ignorance*. The harm that results for another is not voluntary because the ignorance is the cause of the involuntariness. For example, a doctor gives a drink to a patient to heal him without knowing that it is a poison (*NE* III, 1, 1111a 14). The action that results in the death of the patient is involuntary.

Aristotle introduces a decisive difference to actions *in* ignorance[14]. Once the subject knows the harm he has caused, he may or may not experience regret. If he experiences regret for what has happened *through him*, then the action was properly *involuntary*, because the harm has happened *against* the agent's will (*NE* III, 1, 1110b 18; 1111a 20-21). If he does not experience regret, then the subject acted *involuntarily simply* because the harm did *not* happen *against* his will.

Actions performed *from* ignorance. The subject acts *from* ignorance when he is moved by what causes him to act from ignorance (*NE* III, 1, 1110b 26-27). Drunkenness and anger are the examples used. Drunkenness and anger cause the subject's action to be *accompanied* by ignorance. Drunkenness obscures[15] judgement, and anger prevents deliberation.

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[14] The distinction referred to above also applies to the question of whether a forced action in which there is no opportunity to oppose is involuntary or simply not voluntary.

[15] Moreover, it is accompanied by the other cause of involuntariness, force, because it causes the bodily members not to respond to what the subject can command (insofar as he can still command): the principle of action is not in the hands of the agent (*NE* III, 1, 1110a 15-16). Now this ignorance (or incapacity) is culpable because one is master of not getting drunk. That is why, according to Aristotle, those who are drunk are punished twice (*NE* III, 5, 1113b 29-33): punishment for drunkenness and for the harm to others that results from it.

Thirdly, *actions conducted from a type of ignorance the cause of which is the subject himself, and for which he bears full responsibility*. This ignorance differs from the previous ones, because it is an ignorance whose principle lies within us[16], so that the actions resulting from it are voluntary, and therefore not excusable or worthy of leniency[17]. It is the "ignorance" associated with evil or of which evil consists. According to *NE* III, 1, the wicked are "ignorant" of what is expedient (συμφέροντα), that is, "they are unaware of what they ought to do and what they ought to abstain from, and for such a fault they are unjust and generally wicked" (*III*, 1, 1110b 27-29). This ignorance, Aristotle continues, is ignorance in choice (ἐν τῇ προαιρέσει). Since virtue (and vice) is defined as a choice habit[18] (ἕξις προαιρετική, *NE* II, 6, 1106b 35), the ignorance that affects choice is not the cause of the involuntary, but of wickedness. Certainly, the wicked "does not know" to the point of (culpably) confusing good with evil: he takes that which should be pursued as that from which he should flee and vice versa. This perversion has himself as its principle, is installed in him and is sealed as a habit, in the manner of a "second nature" which acts in him as an "intrinsic principle of motion and rest" (*Phys*. II, 1). And therein lies the vice.

According to the above, it is absurd that the unjust do not want to be unjust (*pace* Socrates), for if someone commits actions which he knows to be unjust, and as a result of which he will become unjust, he will acquire the vice of injustice voluntarily. At first it was in his power to do or not to do what was unjust and, consequently, to become just or unjust, but once the habit is acquired it is impossible to turn back, according to Aristotle. Indeed, before a stone is thrown, it may or may not be thrown, but once it is thrown, it is no longer possible to pick it up[19]. Therefore, the vices of the soul are voluntary (*NE* II, 5, 1114a 11-23). This kind of ignorance cannot be alleged as a cause of involuntariness, because it is ignorance in choice and this ignorance is a cause of evil, not of involuntariness (*NE* III, 1, 1110b 31-32). It is difficult to identify a case of a wrongdoer who exhibits a reaction approximating our modern concept of guilt (Zavaliy 2022)).

According to the principle articulated by Aristotle ("unjust action and just action are defined by their voluntary or involuntary character") three basic types of harm result: harm resulting from actions that are neither voluntary nor involuntary (3.2), harm resulting from involuntary actions (3.3), and harm resulting from voluntary actions 3.4).

3.2. Actions that are neither voluntary nor involuntary

Here the agent's *being* is the *condition*, not the cause, of harm happening. The first type of actions that Aristotle contemplates are actions such as growing old and dying. We suffer these natural things knowingly, but they are not voluntary. Could then we say that they are involuntary because they are forced? One might argue in favour of this possibility. Growing old or dying are changes brought about by our very nature. They happen inside us, by a principle which is within us, but which

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16 "The acts whose moving principles are in us must themselves also be in our power and voluntary" (*NE* III, 5, 1113b 19-21).

17 In Aristotle (2009), p. 95 *ad locum,* Ross translated συγγνωμονικά (*NE* V, 8) as "excusable". The translation "worthy of leniency" seems to us to be more appropriate.

18 Choice is what is most proper to virtue (*NE* III, 2, 1111b 4-6).

19 This final remark makes it clear that Aristotelian ethics finds such a thing as an "ethical conversion" impossible.

is not in our power. Moreover, we can undergo them against our will. We can also feel anger within us but without us. Do not these considerations make ageing and dying something that is *involuntary* in us? Aristotle's answer to these arguments is that they have not considered that growing old and dying are actions linked to the vegetative part of man which does not participate in reason at all, whereas the desiderative (θυμός) does participate in reason (*NE* I, 13). For this reason, growing old or dying are actions that do not fall within the genus of what can be voluntary or involuntary. Even so, they result in harm to others. Our being and what happens to it can cause undesirable states for others, regardless of our will. As we age we may become dependent and need our family to spend time caring for us. The harm that results for others from these states or events would be *unjust, but in an improper sense,* because what happens to the subject (and causes harm to others) is *neither voluntary nor involuntary*. The subject, of course, is made neither just nor unjust by it. In fact, this kind of harm would be very similar to the harm caused by events in the natural world[20].

3.3. Involuntary actions and harm

Let us now explore involuntary actions that result in *unjust harm to another by accident*. Since the causes of involuntariness are either *being forced* or *ignorance*, these two causes shall be considered when describing the type of harm.

The subject causes involuntary harm by being *forced*. The condition for being forced is that the principle of action is beyond the subject's control. For example, if someone steps on another in a bus due to inertia or if someone hits another because a third party has grabbed his hand (V, 8, 1135a 27-28). If he contributes something, these would be "mixed" actions that are more like voluntary ones (1110a 11). "Contributing something" implies that the principle of the action is also in oneself and not just beyond one's control. They are "mixed" specifically because the action results from the concurrence of two principles: one external to the subject (the strength of the one who takes his hand) and another that is within the subject and within his power (the non-resistance). Aristotle's example, as we have seen, is that of the captain who in a storm throws the ship's cargo into the sea in order to save the crew. However, three different cases must be distinguished. First, (1) to strike someone being dragged by the force of another who has taken my hand, but resisting. In this first case, my action is involuntary and thereby results in unjust harm (ἄδικον) by accident, but my action is just (δικαιοπράγημα), I acquire moral merit and become just (ὁ δίκαιος), because my action contributes to the growth in me of the virtue of justice (ἡ δικαιοσύνη). Second (2), to be dragged by the force of another and to let myself be carried away because it is an occasion to harm my enemy. In this second case something different happens. My action is properly *non-voluntary*, so that unjust harm (ἄδικον) results from it by accident, but I acquire moral demerit and

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[20] There are events in the non-human world, such as earthquakes, and there are events in man himself. We could say that what happens to us is that we grow old or that we will die. It is not what happens in itself that matters to us, but what we do with what happens. A person may rejoice in growing old because it causes a disturbance to people he hates (they have to take care of him). This joy may speak of a morally bad character, but it does not change the fact that growing old belongs neither to the voluntary nor to the involuntary. Even if one rejoices in growing old in order to cause harm to others, that harm is an injustice in the improper sense because the action that causes harm to others is neither voluntary nor involuntary.

become unjust (ὁ ἄδικος), because my action contributes to the growth in me of the vice of injustice (ἡ ἀδικία).

In addition, there is still a third possibility (3): Being dragged by the force of another and not having the opportunity to oppose or to let oneself be dragged (by suddenly suffering the thrust). This is a case of *misfortune* (ἀτύχημα) proper.

Alongside misfortune, Aristotle speaks of two other types of harm: error (ἁμάρτεμα[21]) and injustice (ἀδίκημα). Let us review[22] these types of harm[23] (βλάβη).

3.3.1. Misfortune (ἀτύχημα)

Misfortune is harm done without malice (*Rhet*. II, 13, 1374b 3-10[24]) and *contrary* to expectation (παράλογος, *NE* V, 8, 1135b 17). It is thus completely involuntary. In misfortune, the harm occurs when the agent did not want to cause anything *with reference to what ends up happening*, i.e., he was "elsewhere", he was into something that had nothing to do with what ended up happening. For example, I stumble in the street and hit someone who happens to pass me at that moment. So described, the action is completely involuntary, because the one who causes the harm is simply a *natural* cause of the harm he causes to another passer-by. The harm results from two independent causal chains that intersect, hence the term ἀτύχημα. Acting without malice and the *unexpectedness* of what ends up happening are defining features of this type of harm. Being παράλογος implies that harm occurs that the agent had not thought of and could not reasonably have thought of.

Cases of misfortune (ἀτύχημα) are always the result of an involuntary action. The cause of the misfortune may lie in the action being *forced*: stumbling and falling or being dragged by the force of another and not having the opportunity to oppose or letting go (by suddenly suffering the thrust).

Misfortune can also be caused by ignorance. The agent is unaware of what he is doing and what is going to happen. For example, terrorists put explosives in the boot of a car. The owner of the car, *when he moves to another city*, takes them with him, completely unaware of what he is carrying. These explosives are used to conduct a barbaric attack. Since he is transporting the explosives out of ignorance, transporting them is an involuntary action. Although he has *materially* contributed to the attack, he is not guilty. His action contributes to a harm that turns out to be unjust only by accident. His action was a *condition* for the attack, not a cause, because his action was involuntary due to ignorance.

The Aristotelian analysis of this action can be extended, although the qualification of the harm does not change: it is always a matter of a misfortune. What can change is the *moral* qualification of the subject's action. Once the driver of the vehicle knows the reality of what has happened, i.e., that he has contributed to the attack by transporting the explosives, there can be two reactions. If he experiences regret over the harm that has occurred, then the action was properly *involuntary*, because the result has happened *against* the agent's will (*NE* III, 1, 1110b 18). The second possibility is that he does not care or even relishes the harm done. In this case the

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21 Usually translated as "error or mistake," but "failure" is also a good possibility.

22 Cf. *Laws*, IX, 861e-864c lists five types (Pangle, T. (1980). *The Laws of Plato*).

23 A discussion of them is missing in reputable commentaries: Grant (1885); Gauthier-Jolif (1959); Dirlmeier (1991). Nor does the recent commentary by Wolf (2013) provide anything of interest on this important point.

24 Kennedy, G. A. (2007). *On Rhetoric, ad locum.*

driver *simply* acted *non-voluntarily* because his contribution to the harm did not happen *against* his will. Although the two possibilities are, from the point of view of voluntariness, very different, the responsibility for what happened is not altered[25]. Consequently, there is no strict parallelism between forms of involuntariness and forms of liability for the harm caused.

3.3.2. Error (ἀμάρτημα)

Harm caused by an action can also be due to an *error*, mistake, or failure (ἀμάρτημα). Both *Nicomachean Ethics* and *Rhetoric* define it in the same way: the harm does not happen unexpectedly, but it *does* happen without malice (μὴ παραλόγως, ἄνευ δὲ κακίας). In this case, the agent intends to cause a certain state of affairs in the world (he wants to comfort someone or prevent someone from falling), but something happens that is not unexpected, but contrary to *his* expectations[26].

What ends up happening was not completely unexpected, even if the subject had done his best to ensure that only what he had expected would happen[27]. Unlike misfortune, in error the agent is voluntarily causing something linked to the harm that occurs, hence the element of non-unexpectedness. The agent wants to cause, but something happens that he neither wants nor expects when he wants to cause something related to what ends up happening. Therefore, the agent acts *without malice* (without the intention to harm). The agent fails, because he does not achieve what he had planned to achieve and knew it was possible not to achieve.

Thus described, the action is involuntary. Let us first consider that the cause of this involuntariness is ignorance. There are two possibilities in this category that Aristotle does not specify. The first is that harm happens that had not been thought of, although it was not impossible for it to happen *as a consequence of my action*[28]. For example, I try to comfort someone. I think carefully about my words and consider what could help him the most and the best. I know that I might err in my intent, but I find no reason not to try to help him. However, when I speak to him, I say a word that for some reason that I *could not know*, hurts and discomforts him more than he already was. In this case, I did not want this to happen, and I did everything in my power to stop it from happening; moreover, it hurts me deeply to have been the cause of greater grief[29]. The harm I have caused was properly unintentional, so the

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25 Someone who relishes what has happened can either keep it secret or boast about his contribution. This second action could involve an injustice, for example, the crime of "glorification of terrorism." It is important to note that, although this second action is linked to the previous one, it is an action that must be judged on its own, although it could be an aggravating factor in the crime of glorification of terrorism the fact that he was the one who transported the explosives.

26 In my opinion, Gauthier (1959) *ad locum* is confused in taking expectedness as decisive. In addition to what we argue in the text, expectedness or unexpectedness is a continuum, so it cannot be in two separate classes.

27 The limitation of human knowledge opens the door to what Aristotle calls "mistakes, errors or failures." It is a human condition that the effects (immediate, short-, medium- or long-term) of our actions cannot be absolutely in our power.

28 This element is decisive in differentiating misfortune from error. With misfortune there is a harm that I had not thought of, nor was it reasonable to think that it would happen *as a consequence of my action*, precisely because I am causing something that has nothing to do with what ends up happening. With mistake, on the other hand, a harm happens that is linked to what I do, a harm that I had not thought of, although it was possible to think that it would happen *as a consequence of my action,* given that what I am doing will be linked to what ends up happening.

29 Note that this description does not turn this action into a case of misfortune, because here I am acting with

resulting harm is something unjust by accident (ἄδικον). In the second possibility, harm happens that should have been thought of. I play with a ball in the street and hit a passerby with it.

The second cause of involuntariness is when the action is forced. I see a person who is in danger of falling and, to prevent the fall, I try to catch him, but I stumble and actually push him. It is the laws of physics that have intervened and caused my action to fail in its purpose. Something similar would happen if a friend, to play a joke on me, pushes me at the very moment I am about to catch the same person. The result is that I push him, pushed by my friend. These would be cases of ἁμάρτημα due to a forced action.

All these cases fall under the category of ἁμάρτημα due to ignorance or being forced. The harm is "not unexpected," but it always happens without malice because it happens *contrary to expectation*. The result is unjust harm by accident. The subject does not make himself unjust by these actions.

3.4. Voluntary actions and harm: injustice, τό ἀδίκημα

So far, we have considered harm arising from involuntary actions. Now it remains to analyse the harm (injustice, τό ἀδίκημα) that derives from voluntary actions (ἑκουσίων: 1135b 9). Although of great interest, this paper will not analyse the voluntary damage that certain groups (e.g. the oligarchy) can cause to a society (Arlen (2019); Balot (2023)).

As the type of harm derives from the type of action that causes it, let us look at the types of voluntary actions in order to derive the types of harm. There are two criteria for differentiating between voluntary actions. The first criterion looks at the existence of deliberation. According to this criterion, two kinds of actions result. Actions *by choice* (προελόμενοι) result from prior deliberation (προβουλευσάμενοι). For example, someone driven by envy seeks to undermine the reputation of another. On the other hand, actions *not by choice* do not have such prior deliberation as an antecedent (ἀπροαῖρετα δὲ ὅσ'ἀπροβούλευτα). Thus, for example, one who acts in a fit of anger (θυμός) because he feels offended.

Voluntary actions can also be differentiated according to another feature: whether or not the subject has the initiative of the action that causes harm. For example, the action of the envious person is "first" (πρότερον, *NE* V, 11, 1138a 21) because it is only his envy that leads him to want to destroy the honour of others. On the other hand, the action of the one who spontaneously returns insult for insult *is not first*, but a response to what is understood as an injustice (without going into whether this response is just or not).

One could, in our opinion, misinterpret this second criterion (πρότερον) as merely an explanation of the previous one (being deliberated). If an action is chosen because it involves prior deliberation, then the subject must have the initiative in it. So too, this explanation continues, if the subject reacts to a previous action (does *not* have

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the intention of producing an effect. The point is that I do not produce the desired effect, but rather another. With misfortune (when I stumble and hit someone) what I intend (going into a shop) is not linked to what actually happens (I hit someone). Through misfortune, harm happens because of me, but without me, because I act without intending anything linked to what happens. With failure or error, a harm happens because of me, although it causes *something other* than what I intended (in wanting to comfort, it can also result in aggravating the grief).

the initiative), then the action is "*non*-deliberate." In our interpretation, it is possible that there are unjust actions in which the subject does not have the initiative (they are not first) and yet they are deliberate.

What this criterion (having the initiative) indicates is that there is no *proper* antecedent to justify or mitigate the (unjust) harm that someone causes, even if his action is related to a harm suffered. In reality, it is not only the person who deliberately engineers harm who is unjust, but also the person who harms another without justification. In that sense, the unjust also takes the initiative when he returns harm for harm. In this case, the unjust acts πρότερον in Aristotle's language, because he gives rise to a *new* harm. An injustice cannot be corrected by another injustice, for he who returns a wrong for a wrong causes a new wrong. For Aristotle, the "reciprocity" (ἀντιπεπονθός) of "an eye for an eye" is not the true name of justice, *pace* Pythagoras (*NE* V, 5). One of the fundamental reasons for such discourse in a book like the *Nicomachean Ethics* is that the fundamental harm brought about by an unjust action is suffered by the one who *commits* the injustice, not by the one who *suffers* it. We shall return to this decisive Socratic thesis, accepted by Aristotle, at the end of this paper.

Consistent with these two criteria, the text of *NE* V, 11 indicates that the unjust action *itself* must fulfil three conditions[30]: it must be voluntary, done by choice and the one who acts must take the initiative (ἔτι δὲ ἑκούσιόν τε καὶ ἐκ προαιρέσεως καὶ πρότερον, *NE* V, 11, 1138a 20-21).

As previously argued, whether an action is deliberate and whether it is first are distinct, albeit related, elements. Actions performed by choice can either be first (πρότερον, the subject has the initiative in the harm) or react deliberately to a harm, by returning an unjust harm to the aggressor. However, if an action is carried out *not by choice*, then it can no longer be πρότερον. Thus, the combination of these two criteria results in three types of voluntary actions from which an unjust harm results, but not in the same sense in all three cases.

1. *Voluntary*, *choice* and *first* actions. These are unjust actions in the strict sense. This is the case of the murder of Polydorus, the infant son of Hecuba, wife of Priam, king of Troy. As Priam foresaw the fall of Troy, he entrusted little Polydorus to the care of King Polymestor. With his son, Priam sent the treasure of the royal household to support his family should he go into exile. However, Troy falls and Polymestor receives word that Priam and his son Hector, heir to the throne, are dead. Polymestor kills Polydorus, his host, and, without burying him, throws him into the sea in order to get his hands on the treasure. All three features are present in this unjust action. It is a *voluntary* action, for one who acts out of a *desire* for wealth (ἐπιθυμία) cannot claim that he acts out of compulsion or ignorance. It is *by choice* since it is a deliberate action, which, moreover, is not in keeping with the sacred rule of hospitality, of which Polymestor cannot be unaware. Moreover, it is *first* since there is no precedent for it other than King Polymestor's desire to satisfy his lust.

2. There are also *voluntary and choice* unjust actions, *in which the agent reacts to an injustice* (Stewart 1892, p. 501). Let us consider the context of the manifest

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[30] In my opinion, the interpretation of Jackson (1973), p. 123 distorts the text, as clearly shown in *NE* V, 8, 1135b 8-11, where a distinction is made between voluntary actions that are done by choice and those that are not. "Voluntary" and "by choice" are not synonymous, cf. García Maynez (1973), p. 123. There are actions that are the result of choice, which can be involuntary. I choose to comfort a friend, but my proposals result in greater discomfort. This result is involuntary, although my action was made by choice.

injustice perpetrated by Polymestor. According to the tragedy by Euripides, the half-eaten corpse of Polydorus arrives on the beach where Hecuba, his mother, imprisoned by Agamemnon, has set up camp. Hecuba recognises her son's corpse and, filled with rage, plots her revenge. She lures Polymestor and his two sons to her tent under the ruse of revealing to them where to find the rest of the Trojan treasure. Once in the tent, with the help of other captives, she kills Polymestor's two sons and blinds him by sticking needles into his pupils. There is no doubt that Hecuba *chooses* how to carry out her deed because she *deliberates* on the means[31] to carry out her revenge.

If one is to qualify the harm arising from these two actions (that caused by Polymestor to Hecuba and that caused by Hecuba to Polymestor), one must remember that the *Rhetoric* points to two causes for choosing to do harm against the law: wickedness and lack of control over oneself (κακία καὶ ἀκρασία: *Rhet*. I, 10, 1368b 14).

The two types of actions described must result from evil because they are the result of prior deliberation, and this necessarily involves devising the harm. Indeed, he who plans a harm (deliberates on how to carry it out) cannot ignore it (ὁ δ' ἐπιβουλεύσας οὐκ ἀγνοεῖ, *NE* V, 8, 1135b 33). The agent cannot, of course, be unaware of the harm he *wishes* to inflict on another. Although both actions are voluntary and deliberate, Polymestor is worse than Hecuba, for at least two reasons. The first is that Polymestor acts out of pleasure, Hecuba out of pain. The second reason is the one that interests us most here: Polymestor's action has no antecedent (he has the initiative to harm), while Hecuba responds to an injustice by devising another injustice and making herself unjust for it and becoming a bitch thirsty for revenge[32], as Euripides describes her.

3. There remains a third type of actions: voluntary unjust actions that are *not by choice* (because they are spontaneous, not premeditated). The actions to which we will now refer are not those of the vicious, but properly those of the incontinent. Aristotle points out that these are neither unjust nor wrong (ἄδικοι διὰ ταῦτα οὐδὲ πονηροί). These actions are done knowingly (1135b 20, εἰδὼς), so they are voluntary, but not deliberate (μὴ προσβουλεύσας, 1135b 20). The subject is carried away by the impulse of anger or other passions which are necessary or natural in men (1135b 21-22; *Rhet*. II, 10, 1368b 14-24) and which the ἀκρατής fails to control. Thus, for example, one who in a fit of anger strikes another or one who, driven by thirst, does not respect his turn at a fountain[33].

According to Aristotle, a kind of harm *to another* derives from these *three* kinds of actions, which he calls "ἀδίκημα" (injustice).

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31 Aristotle undoubtedly asserted that deliberation is always about means, not ends, e.g., in *NE* III, 1112b, although some may not find this assertion sound, such as Kolnai (1977), pp. 44-62. It is the ends that shape character. And Hecuba has her ends set: to repay evil for evil.

32 Euripides (1912), *Hecuba*, verses 1270-1275; Nussbaum (2001), pp. 398 and 413-421; Lozano (2016), pp. 91-108.

33 Although the above actions may arise from the incontinence of the θυμός or the ἐπιθυμία, they may lead to vice. If the subject allows himself to be carried away by this type of behaviour, he will generate in himself an evil habit that will give rise to a vice, "a second nature" by which he will end up acting *without questioning* the (evil) ends that he is in fact pursuing. This "second nature" will have been shaped by *voluntary choices* to such an extent that the subject has imprinted his character on an acquired vicious habit (Racionero 1990, p. 374, note 169).

4. Harm suffered by the person causing harm

Yet, why qualify harm caused by different kinds of actions in *a single way*? (ἀδίκημα: 1135b 22; ἀδικήματα: 1136a 2). Given that the study perspective is ethical, a distinction between different types of harm would seem warranted, given that, for example, Polymestor's action is worse than Hecuba's action.

Two responses to this question can be put forward. If Aristotle qualifies the harm caused by the three kinds of actions described in one and the same way, this may suggest his belief that voluntariness and injustice go so closely together that, in order to decide whether an action is unjust, it suffices to look at its voluntariness, its *genus*, which is what provides the subject *matter* of the action. Since his *Ethics* is not a treatise concerned with *specifying* crimes, he need not descend to details that anyone could point out, as he makes clear from the outset (*NE*, I, 7, 1098a 21-b 9).

There is a second, decisive argument in support of Aristotle's proposal. It is precisely because we are dealing with ethics that Aristotle is interested in distinguishing two different kinds of effects of action. The first is the harm that someone causes and that *another* receives. This is the kind of harm we have discussed thus far. The second is the effect that the action has on the agent himself. This is the harm suffered by the person who causes harm. These are different kinds of harm. The harm we are now concerned with consists in shaping the character of the agent: he becomes vicious. Aristotle is interested *above all* in these second effects, as the discussion in *NE* V, 8 and 11 shows. In a treatise like the *Nicomahean Ethics* which defines happiness as the activity of virtue (*NE* I, 13), this perspective is decisive, and that is why the *proper object* of Book V is the study of the *virtue* of justice[34] and, in relation to it, its repercussions on others. It is precisely this ethical perspective of the *first person* in the approach to justice that makes the final discussion of this book V (11, 1138a 29-b 5) so relevant[35]. Aristotle accepts the Socratic principle that it is *always* preferable to suffer injustice rather than commit it. In the *Apology*[36], Socrates recounts how the Thirty tried to implicate him and four other Athenians in an injustice. They ordered them to bring Leon to Salamis to execute him. However, Socrates, on leaving the Tolo where he had been summoned, went home risking his life for disobedience. Socrates would certainly have been *harmed* by suffering the injustice of being killed, but it was incomparably *more harmful* to commit injustice (to lead Leon to the scaffold), even if no *non-strictly moral* harm to Socrates (or even *non-strictly moral* goods, such as preserving life[37]) followed from it. For those who, like Aristotle, accept this Socratic principle, there is no proper *non-moral equivalent* for *moral harm* (*NE* V, 11, 1138a 36-b 1). Consequentialism throughout the ages rejects this thesis by asserting that the *moral evil* of an action is always reduced to the *total harm* resulting from an action (including the "moral harm" suffered by the agent himself) because, ultimately, all goods are commensurable. This is why they turn ethics into a technical cost/benefit

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34 "Book V connects directly with the immediately preceding section of the *Nicomachean Ethics*: in other words, we are still concerned with the task propounded in III 1115ª 4-5, the description of the moral virtues in detail", Joachim (1951), p. 126.

35 We do not agree, therefore, with Natali's interpretative judgement of the last chapters of Book V: "Ma di certo la digressione sui tipi impropri di coraggio è più breve e meno complessa della lunga e disarticolata discussione che troviamo nella seconda parte di *NE* V, 10-15", Natali (2017), p. 110.

36 *Apology* 32a-c; *Gorgias* 508e-509d; Nagel, (2012), pp. 61-62.

37 This is the underlying discussion in the *Crito*.

calculation. For those who think this way, ethics is ποίεσις guided by τέχνη, never πράξις guided by φρόνησις, ignoring that πράξις and ποίεσις are different species of human action[38]. Now, if the perspective is properly *ethical* (ἦθος implying virtues), the harm caused by an unjust action should also and primarily be looked at from the viewpoint of the *person* who does it. Accordingly, it seems that Aristotle should not qualify with the same term (ἀδίκημα) the harm of deliberate actions (first or not) and that of non-deliberate ones. In the case of fully voluntary actions, it is difficult for the agent to regret the harm done, whereas in the second case it is easy for this to happen when the passion that was at the origin of the unjust action ceases. Such regret would indicate that the action, though knowingly performed, was not as fully voluntary as the vicious one, which Aristotle himself asserts, as we have seen. Consequently, both cannot be ἀδίκημα in the same sense. For, as noted at the outset, (in)justice is said in many ways. Failure to properly distinguish these meanings is one of the biggest problems faced by those who try to know what is meant when we say (in)justice. An ethical theory of harm should not neglect the *properly ethical harm* that injustice causes: shaping a vicious character. The effect that choice acts have on the character of the chooser is radically different from the effects of those same actions in producing, impeding or harming human goods of a non-moral nature, even if they are morally relevant goods or wrongs (Finnis 1991, pp. 21-22). In saying that an "unjust harm" is *suffered* or that an "unjust harm" is *committed*, the terms "harm" and "unjust" change meaning, as we have found, to the point of being practically ὁμώνιμος[39]. Harm for he who voluntarily causes harm is a wrong for he himself, perhaps the *ultimate* wrong[40].

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[38] "Prudence can neither be a science nor a technique [...], [it cannot be a] technique because production and action belong to different genres." (ἡ φρόνησις ἐπιστήμη οὐδὲ τέχνη, […], τέχνη δ' ὅτι ἄλλο τὸ γένος πράξεως καὶ ποιήσεως, *NE* VI, 5, 1140b 3-5).

[39] The difference between what is a non-moral but morally relevant good (or wrong) and the properly moral good (or wrong) (virtue or vice) may be subtle, but of enormous significance, as we have argued.

[40] There are also actions that are inherently good (virtuous). Stangl (2016) refers to these actions as "supererogatory".

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