

Introduction au Droit

- Se procurer « Institutions Juridictionnelle » (10e édition – ellipses (Scarano))

Droit et Justice : distinction par Aristote : qualitative et distributive

distributive = englobe ce que l'Etat peut réclamer des sujets et ce qu'il leur doit. Fondé sur l'égalité géométrique. Ces 2 notions sont pas sur même plan : 1ere individuelle et strictement juridique. 2Nde est sociale, collective et politique. Ne reposent pas sur la même inspiration : une statique et conservatrice, l'autre dynamique et correctrice
nombreuses règles droit fondées sur justice commutative et

justice commutative interdit de s'enrichir injustement au détriment d'autrui. Si l'un s'enrichit et l'autre s'appauvrit = injustice.

Distributive quand elle instaure la progressivité de l'impôt sur revenu, OU ENCORE QUAND il s'agit de redistribution des richesses opérées par prélèvements fiscaux ou sociaux (ISF qui finance le RMI) ceux qui ont bc donnent à l'Etat qui donne à ceux qui ont peu. (CSG)

on constate que justice distributive envahit progressivement notre droit. Il n'a pas pour mission le culte de la justice, mais son objet est d'assurer par priorité l'ordre et la sécurité : ds certains cas, justice est écartée, lorsque la sécurité juridique se présente comme une valeur supérieure qui doit l'emporter : c'est par ex le refus de principes d'annuler un contrat sur la seule constatation du déséquilibre des prestations : la justice voudrait que le débiteur puisse se dégager d'un accord devenu trop onéreux par suite de circonstances indépendantes de sa volonté. (ex : crise éco, perte de

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