

Justice within law is an essential concept and purpose that needs to be achieved. Law has been defined as 'A command issued from a sovereign power to an inferior and enforced by coercion' - John Austin Justice is a difficult concept to define but can be described with synonyms such as "fairness," or "equality." Plato a Greek philosopher defined justice as harmony between different sectors of society, which means that moral issues almost always concern justice. For example, it is unjust for someone to steal something from someone else - which is reflected in the modern law of theft today. Aristotle another Greek philosopher defined justice as achieving a balance and middle ground - this idea is reflected in many of his teachings. Again, this can be seen in today's law when Parliament and the Courts balance conflicting interests, as in human rights with article 8 and 10. The dictionary states that justice is "a moral idea that the law seeks to uphold in the protection of rights and punishment of wrongs." Lord Lloyd also agreed that justice is a moral value. This highlights the many different ideas surrounding justice. The idea of justice is intrinsically linked to the legal system.

There are many different theories that aim to explain the relationship between the law and justice. However, justice may not always be synonymous with the law, as it is possible for a law to be unjust and views as immoral as in the case of *Re A* (Conjoined Twins). Some laws are not viewed just, such as strict liability - which imposes liability on people who may not have any fault.

One theory is distributive justice, which refers to the fair distribution of benefits and responsibilities within society. Aristotle, who believed that justice is about achieving a middle ground, argued that wealth should be distributed based on who contributes the most to society - based on merit and achieving proportion according to each person's individual claim. This isn't based on the neediest, but the worthiest. It would not be just to allocate wealth based on need, as the laziest may receive the most. Aquinas was also similar and believed that wealth should be allocated fairly, and what is fair is based on an individual's merit and contribution towards society. For example, it would be wrong to pay workers an equal amount for unequal work, or vice versa. In contrast, Karl Marx believed that people should receive based on their need and contribution - "from each according to his ability, to each according to his need." This means everyone will receive equal amounts, regardless of contribution or need. But this has been criticized for being unfair, as it can give rewards to the least. The idea of proportionality is reflected within the legal system, for example where the sentences are proportionate to the fault as in murder which attracts a mandatory life sentence due to the seriousness and high level of fault.

Another theory relating to justice is Utilitarianism. This was created by Jeremy Bentham, and is based around the 'principle of utility' - actions are right or wrong depending on how useful the consequences are, a consequentialist theory. He promoted the idea that justice is achieved the maximum amount of people have maximum happiness. (The greatest good for the greatest number). John Stuart Mill further developed this and included respect for people, property and for rights under justice. He also created the 'harm principle,' which is that people should be able to do anything, unless it harms other people. One other key theory relating to justice is social justice. This concerns the opportunities and rights that people have within society. A key thinker within this is John Rawls, and he created a thought experiment within his book 'A Theory of Justice 1971.' This was called the 'veil of ignorance,' where an individual would place a veil of ignorance in front of themselves and distribute resources in an impartial manner. And the person wouldn't know what position they would be born into. He believed that this would distribute goods and wealth and benefits fairly. This is all based upon fairness.

Within the legal system there are different ways to achieve justice. One avenue of justice is procedural justice which concerns legal aid and access that society has to the system. Everyone has a right to justice and access to legal aid, and this was reflected in the legal aid reforms in 2010. However, the Legal Aid Sentencing and Punishment of Offenders Act 2012 (LASPO) significantly reduced the availability of legal aid. The Government cut £250 million from the budget which meant that significant areas were removed, especially advice concerning social welfare. This means that many people have been excluded from legal representation, and it needs to be reformed to achieve justice and fairness. Another form of justice that seems to be more successful is corrective justice, and areas that haven't achieved justice can be resolved. For example, this is seen in the miscarriages of justice in criminal cases, where people serve prison sentences for crimes, they are not guilty of. One example of this is Andrew Parkinson who served 17 years in prison for a serious rape that he did not commit. The Criminal Cases Review Commission, established in 1997, reviews cases that have been wrongly convicted or unfairly sentenced. They were able to overturn and remove his conviction, which exemplifies a successful achievement of justice. Another area is substantive justice, which means that the law and the content must achieve justice. One way this is shown is in the defenses available for murder within criminal law. There are partial defenses such as loss of control and diminished responsibility which if successful reduce the sentence and conviction. Self-defense and automatism can also exclude full liability if successful. To achieve justice cases must be treated in a like manner.

# Essential Concept Of Law

**Julia Schneider**



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