

# MY IDEA OF JUSTICE

N.BRAJAKANTA SINGH,

CHINGAMATHAK NAMEIRAKPAM LEIKAI, IMPHAL WEST

Email ID: [brajakanta85@gmail.com](mailto:brajakanta85@gmail.com)

#.9862050974

DEPARTMENT OF LAW, MANIPUR UNIVERSITY.

## 1. Introduction

The term justice carries different meaning to different people at different times. To the ordinary person 'justice' will mean due punishment when a criminal is sentenced for a crime. To the accused person justice means fairness: a fair hearing, a fair sentence that punishes not too harshly and offers hope. To the philosopher, justice can be about morality and fairness. To the lawyer, justice means the application of the rule of law that is the certainty of applying legal rules developed over centuries to resolve disputes between citizens and the citizen and the state. To the judge, justice is the application of the rule of law without fear or favour, affection or ill-will. Then there is a notion of social justice to be compared with legal justice. The basic needs of humanity – shelter, education and healthcare – are sometimes advocated on the basis of a fundamental humane entitlement. If the entitlement is not met then a denial of social justice is asserted. Arguments prevail about the haves and the have-nots. It is said to be 'unjust' that some in society are homeless, receive a different standard of education or are unable to access necessary healthcare. In this sense, the concept of justice is merged with factors of equality, opportunity and equity. Again, justice is something we seek because it embodies a foundation value for all communities, peoples and nations. What we seek is not a range of personal preferences but that best serves all of humanity. In this essay an attempt is made to analyse how the idea of justice is conceived in our justice delivery system and how it operates in the society vis-a-vis law.

## 2. Justice in the society

The commission of a cruel and violent crime offends society. The representative of society, the prosecution will call for an appropriate degree of punishment for the offender who has committed such an act. If we take one of the most serious criminal offences, murder, the prosecutor will represent the interests of society in urging a long period of imprisonment. In particularly shocking cases, a death sentence may be called for. Immediately after delivery of sentence it often happens that the victim's family and supporters will express their satisfaction or dissatisfaction with the sentence. We sometimes hear the statement 'justice has been done'. We also hear 'justice has been denied to the victim' because the punishment was too lenient. In recent time, victims are given the opportunity to tell their story in the form of a victim impact statement which is produced or even read out by the victim in Court. Sometimes the rights of victims and the rights of accused persons bang up against each other but other times they can overlap. For the victim, the meting out of justice is sometimes seen as a set of scales. The leaning of the scale more one way than the other will depend upon the gravity of the offending, the moral outrage of the victims' and their

families and the indignation of the society confronted by the particular offending. But the tension for victims is not just between victims' rights and the rights of accused persons, there are also the rights of society enshrined in sentencing laws, for example, the goal of rehabilitation and the mercy shown to young offenders balanced by the goal of deterrence.

Insuring an efficient, accessible and qualitative justice represents a legitimate expectation of citizens in a society founded on the respect of the rule of law. A judicial system acquires legitimacy and respect from the citizens through an excellent functioning which results in impartial, clear and well-reasoned judgments. Therefore, raising the level of public trust in justice, as a fundamental element of the legitimacy of any judicial system, and its efficient functioning at the service of citizens, is based on the transparency and accountability of this system. The judicial reach and plural range of the judicial process to remove injustice in a given society is an index of law-in-action. However, law and justice are also interwoven. The end of law is justice. In the legal sense, justice is an application of law to particular cases. In this sense law would include common law, enacted law, equity law or case law. Law seeks to give justice, but law is not justice. Justice is the ultimate goal of the society. Again, 'justice is functionally outraged not only when an innocent person is punished but also when a guilty criminal gets away with it stultifying the legal system. The deep concern of the law is to track down, try and punish the culprit, and if found not guilty, to acquit the accused.

### **3. Role of Courts**

One of the primary functions of Courts is to ensure that each set of proceedings before them is conducted so as to 'facilitate the just, efficient, timely and cost effective resolution of the real issues in dispute'. There are still a number of issues for the courts to grapple with when dealing with a dispute because justice is not solely about justice between the parties in a court case. It is also about justice to society. To the judge, justice is a concept that really equates to an application of the rules to achieve an outcome. The judge's role as an umpire is to serve the community in the pivotal role of administering justice according to law. When judges determine that a miscarriage of justice has occurred they are, in effect, saying that the rules of justice, that is, the rule of law has been incorrectly applied. Where a wrong had been done, the word 'justice' appears in the context that an injustice has been done or justice has miscarried. There was an innate sense of wrongness in what had been done to the individual accused. While an individual judge may always want a just outcome, the judge's pursuit of justice is constrained by the application of the law according to the established legal rules and processes. This view, strictly applied, could see a judge acting correctly according to law, but enabling an outcome which, from a broader view, was arguably unjust. When a victim cries out that there is 'no justice' in a particular result, for example, when commenting upon a sentence the victim regards as totally inadequate, the victim is not concerned with the application of the rule of law or the just application of legal principle. The victim is speaking from an innate sense, from an instinctive understanding, of what justice is, to say 'This result is not just'. Is it not possible that the judge in question might agree privately with the victim, more or less, because he or she shares the same broad view of justice, and taking that view, feels that the sentence was inadequate but is constrained by legal principle? In *Dayal Singh v. State of Uttaranchal*, (2012) 8 SCC 263, the Supreme Court held that the criminal trial is meant for doing justice to

all - the accused, the society and the victim. Then alone can law and order can be maintained. The Courts do not merely discharge the function to ensure that no innocent man is punished, but also that the guilty man does not escape. A number of views or understandings of the term justice can be at play at the same time. It could be argued that the 'just' application of the rule of law and legal principles is really the correct application of the rule of law and legal principles and that both are merely mechanisms aimed at and designed to achieve justice. On this view they do not embody justice but exist to enable justice to be achieved. They are the best tools we know to maximize the chances of justice but they do not guarantee it. They may be necessary but they are not sufficient to guarantee justice. Presumably, that will also require just laws, that is, laws which, when properly applied through the rule of law and established legal principles, will maximize the chances of a just outcome.

#### **4. Just laws**

Now, another question came up. Who is responsible for ensuring just laws? The obvious answer is that it is the responsibility of all the adult members of society to play their own best part in ensuring that all laws are just. While politicians may enact the laws in Parliament, the citizenry elects the politicians. We all have the responsibility to ensure just laws. While the way in which a society should operate politically to involve the citizenry in such an achievement takes us directly back to the fundamental question 'What is justice?' The meaning of such an important and complex concept as justice has developed through the interaction of the development of civil society, the development of human language and the total living experience of human beings. It has brought about in each of us a notion or a sense of a just outcome or a just state of human affairs and experience. Justice must in the end be about the state of human experience as lived by individuals, families, groups and nations. It cannot be divorced from discussion about what constitutes our humanity operating at its best. What forms of human experience and living best embrace and encourage each individual's capacity to develop fully and contribute to the happiness and welfare of every person in our society is an inherent component of the discussion. For each one of us as citizens of society, our notion of justice may well center around the fairness of our own life and the lives of our family members compared with the lives of our neighbours, fellow citizens and human beings throughout the rest of the world.

#### **5. Conclusion**

Justice in modern day must be supported by law. Justice should be given according to law which again implies equality before law. It means no one can be above the law and everybody should be equally punished for equal crimes. The courts of law can give legal justice. Indeed, justice should not only be done, but manifestly and undoubtedly be seen to be done. To achieve justice for all in our country, we must work collectively to assure that our court system is strong and that our judiciary remains independent. It must be not only for and when our own interests or those of our clients are at stake. Rather, it must be so each time we see injustice, lack of access, attacks on the judiciary, or services rendered by the justice system that fall short of what Indians are guaranteed by our Constitution. We cannot stand silent and turn a blind eye. Each of us who plays a role in the justice system must go about our daily work with recognition that the hallowed halls of justice belong to



the people. We must do all we can to assure that courts are places of fairness and equality; we must give life to the notion that they are “the people’s courts.” Similarly, lawyers can do their part to help build trust and confidence in our justice system by educating those whom they represent about the rule of law in our society and the court’s role in upholding same. Helping them understand that justice ultimately is defined by fairness of process, integrity in purpose, and ethical means in adherence to the rule of law, and is not always found in victory, can be one of the most important lawyer-client conversations to be had, and it will go far in building trust in the justice system. The legal profession of lawyers and judges and all those who have the privilege of delivering legal services to the public cannot leave it to those in future years to restore trust in our justice system. It will be too late. We must do our part, individually and collectively, to make the concept of justice a reality for all.

