



What is Justice?

It is not uncommon for a victim or victims of a crime to angrily proclaim, after the accused is given a sentence much less severe than they wanted and expected, “There is simply no justice!” (See: Gordon Kent. “Crime victims see no justice.” *Edmonton Journal*, May 30, 2004).

What does justice mean to someone who is directly affected by a criminal act? Do crime victims dissatisfied with a sentence usually want a more severe form of punishment? Is long term incarceration the most severe punishment that can be administered in a civilized, democratic society? Are victims expecting some form of restitution? Do victims claim there is no justice because of the belief that “their case” was treated differently than the norm? What does the term “justice” mean to victims of crime, their families, witnesses, and the general public? This is the topic we want to explore in this newsletter.

Justice Defined

What, really, *is* justice for lawmakers, academics and those engaged in jurisprudence – the judges, prosecutors, and barristers? So much has been written about justice since Biblical times that no brief answer to this question is possible. On the other hand, there are identifiable terms and themes in the literature on justice that offer some insight into this subject.

Justice can be more easily understood if its historical development is viewed from three perspectives: as a universal abstract idea somewhat independent of man, as a temporal human and social ideal, and as a blend of the two aforementioned perspectives. For example, the roots of the phrase “All men are equal as far as the natural law is concerned” can be found in ancient philosophy as well as having modern legal and social application (Burton; Wright).

A brief survey of law dictionaries, encyclopedias, and reference texts provides a number of important principles, concepts, and terms that characterize justice in the early 21st century:

- The principle that “the like be treated alike” has been described in a number of ways:
 - The perpetual disposition to render every man his due (Black; English)
 - To render each one his rights (Burton)
 - The virtue that results in each person receiving their due (Curzon)
 - Equity and justice are substantially equivalent and synonymous terms (Black)
 - “Just and equitable” are general terms and, according to a Nova Scotia court ruling, should not be reduced “to the sum of particular instances” (Gardner)
 - A sense of righteousness (Forkosch)
- The principle that justice is primarily determined by the law:
 - Justice according to, or conforming with, the law (Black)
 - According to a New Brunswick court ruling “just” means “conforming to or consonant with what is legal” (Gardner)
- Various terms are used to convey the concept of justice: equitableness, equity, fair-mindedness, fair play, freedom from bias, impartiality, objectivity, probity, reparation, retribution, right, righteousness (Burton)
- Retributive justice is a particular approach that has gained substantial popularity. It links morality with wrongdoing and justice. Offenders, its proponents argue, ought to be punished law in proportion to their guilt and the extent of their victim’s injuries (Curzon). The application of retributive justice is evident in the concept of “just desserts.” The principle underlining just desserts is that punishment for a crime should be directly related to the seriousness of the crime” (Davis, 143).
- Another application is the development of the “justice model” (Davis, 144; Williams). Critics of the U.S. correctional system in the 1970s argued programs emphasizing rehabilitation within prisons had little positive effect on inmates. This was called the

Restorative Justice... con't.

“nothing works” movement. Greater emphasis should be placed on “fairness.” This can be best achieved by abolishing the use of indeterminate sentences and limiting judicial discretion in order to make sentences uniform for certain categories of crime.

Justice and a ‘Just World’

These formal definitions mean very little to citizens who strongly believe their relative or friend, victimized by a crime, is not being treated with fairness and justice. Their view of justice is commonly negative: sentences are too short and the law provides too much protection to criminals; the “rich” are favoured over the “poor”; anyone can “get off” if they have a good lawyer; the process is too slow (Brillon, 121).

The field of social psychology and research on “beliefs in a just world” help to explain these attitudes.

Researchers examined the extent to which people believed they have control over their life experiences. They tested the hypothesis, derived from analyzing public attitudes, that good things happen to good people, and bad things happen to bad people. In other words, people generally believe they get what they deserve and they are responsible for the situations in which they find themselves. A Just World Scale has been developed to explore this concept further (Furnham, Smith & Green).

This research noted contradictions in the way people react to the fate of one another: sometimes deep compassion and self-denying behavior is exhibited in response to the suffering of others. At other times people react with relative indifference (Lerner, p. 1).. Who is “deserving” and what is just evolves out of the socialization process for children and adults. So, not surprisingly, justice is not always an altruistic matter of doing right by others; it can also be a selfish matter of not letting others do wrong to us. It begins with what we think we deserve for ourselves (Kain).

A sense of entitlement is also an aspect of viewing the world as just. People generally set their expectations, engage in activities, and evaluate outcomes for themselves and others based on what they believe they are entitled to, and not necessarily on the basis of what they want or desire (Lerner).

“Power-distance” is an important factor. Those who have more property, wealth, and power will more likely have stronger just world beliefs than those who have little or no power (Furnham).

People’s sense of vulnerability and the inability to control their personal circumstances tend to create views that the world is not just (Forest).

This research on beliefs in a just world offers some insight into the citizen who exclaims “There is no justice!” They are more likely to be people who feel powerless and vulnerable, believing that their relative or friend is entitled and deserving of more in terms of retribution. What these citizens are asking for, however, is not really justice.

Justice in Canada

It has often been said that the primary purpose of law is, or ought to be, the implementation of justice (Wright, p. 1859). It is for this

reason that justice in Canadian society is simply legal justice – the justice of law and the courts. Justice is what is decided by the lawmakers in terms of how they view “the common good” (Wright, pp. 1864-1871) and the courts in terms of how they interpret the law. Other considerations such as equity and fairness and similar dimensions of justice are difficult and sometimes impossible to be narrowly applied in a way that will satisfy individuals and some groups of citizens. The law in our society is the sole determinant of what a person deserves if they break the law and what each victim will receive or not receive as a result of this decision

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The Charitable Dilemma – Part 2

[In this, the second of a series of commentaries, Brad Odsen, Executive Director of the John Howard Society of Alberta continues his examination of issues impacting charitable organizations across Canada, with particular relevance to community agencies in the human services business, including the John Howard Societies in Alberta.]

In my first commentary, I discussed the ramifications of community agencies being required to “do more with less”, every year, over at least the last 25 years. I went on to discuss the move to short-term project funding that has been growing over that same period, the restrictions that are being imposed on the funds that are received, and reporting requirements that are becoming more and more detailed and requiring very specific expertise. Lack of resources, and inability to utilize those resources that are available in the manner that the Boards of community-based organizations identify as requiring attention, will inevitably lead to a crisis in the sector. In this, my second commentary, I want to explore that further, by providing an example of how funding restrictions are having a dramatic impact now, but the effects of which won’t be felt for another 5 to 10 years.

The John Howard Societies in Alberta have been very fortunate over the years in that they have had, and continue to have, highly qualified individuals serving as Executive Directors. Indeed, the length of time that some Executive Directors have been with their organizations is somewhat of an anomaly in the non-profit sector; no doubt a testament to the personal value they place on the work of the Societies.

But like in business and government across Canada, the non-profit sector, including John Howard Societies in Alberta, are facing a coming crisis at the executive management level arising from an aging workforce. ***Within the next 10 years, better than 60% of middle and executive level management, in business, government, and the charitable sector, will be eligible for retirement.*** But while business and (particularly) government are starting to prepare for this by engaging in succession planning, the charitable sector lacks the resources, the expertise, and the funding, to undertake this vital work.

One factor that will seriously impact the ability of charitable organizations to address the coming workforce issue is that of employee compensation. The Canadian Centre for Philanthropy has reported that employee compensation in community agencies, particularly at the managerial and executive level, is 50% or less of that for those employed with comparable responsibility in academia, business, and government. So while current management may be willing to “stick it out” to retirement, the real issue is whether community agencies will be able to recruit the highly qualified individuals that are necessary to continue the organizations’ efforts over the coming years.

The issues of executive competency and executive recruitment are inextricably tied to that of executive compensation; yet more and more funders are setting conditions on their funding that make it exceedingly difficult for charitable organizations to adequately fund executive positions within the organization. *This suggests an “organizational disconnect” amongst funders, particularly government or government-related funders, who have recognized and are addressing workforce and succession planning issues within their realms, but maintain funding policies for charitable organizations, directly or indirectly¹, that negatively affect the ability of charitable organizations to effectively address this critical issue.*

This is exacerbated, in a sense, when one takes into account the fact, as recently revealed in the Highlights of the National Survey of Nonprofit and Voluntary Organizations², that government funding accounts for the lion’s share of funding for community-based human service organizations (like the John Howard Societies) in Canada.

Now this is not necessarily to suggest that the executive management of charitable organizations ought to be compensated at levels comparable to those in business, nor even at the same levels as those in comparable management levels in government, health care, or academia; certainly there is an element of “the value of the work” and the personal satisfaction the individual in the charitable sector derives from doing that work which offsets, to a certain extent, the lower level of compensation. But the future ability of organizations to recruit and retain individuals possessing the qualifications needed is nevertheless clearly constrained by current funding policies that restrict the ability to offer compensation that is at least near to the comparable range offered by government.

It is indeed anomalous that while more and more expertise and knowledge are being demanded of the executive leadership of charitable organizations yet, at the same time, the notion that an individual employed by a charitable organization ought not to be comparably compensated for the value they bring and the work they do continues to persist.

¹ Directly when government funding is by contract with a government department/ministry (e.g.: Alberta Solicitor General) or grant from same, and indirectly when the funding source is a Board, Commission, or Foundation “controlled” by government (e.g.: Alberta Liquor & Gaming Commission; The Wildrose Foundation).

² Statistics Canada, September 2004, Catalogue no. 61-533-XPE, Ottawa.

“Of major significance to rights of inmates is the first principle of our correctional philosophy which states that inmates retain all the rights of a member of society, except for those that are necessarily removed or restricted by the fact of incarceration. This principle recognizes that offenders are sent to prison as punishment, not for punishment, and therefore, while in prison, retain the rights of an ordinary citizen, subject only to necessary limitations or restrictions . . . In effect, the ‘retained rights’ principle means that it is not giving rights to inmates which requires justification, but rather, it is *restricting* them which does”

Correctional Law Review, 5th Working Paper, *Correctional Authority and Inmate Rights*, Ottawa, Solicitor General Canada, 1987.

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The John Howard Society of Alberta is an agency composed of citizens in Alberta who are interested in criminal justice reform and preventing crime in our communities. We recognize that dealing with crime is the responsibility of the community as well as public agencies.

We gratefully accept donations to help offset the costs of our efforts in criminal justice reform and crime prevention. Donations are income tax deductible.

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