

Law Vs. Justice

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I. INTRODUCTION

Are law and justice the same?

Many people use these two terms interchangeably, but they are not identical. Understanding the difference between them is essential to understanding how our legal system works and why debates about fairness often arise. This article explores the relationship between law and justice, the situations in which they appear to conflict, and how the legal system seeks to balance certainty with fairness.

II. JUSTICE: THE IDEAL

The term Justice is derived from a Latin word, Justitia, which means righteousness or fairness. Justice is a concept that remains elusive to both laypersons and experts alike. People from diverse disciplines, as well as ordinary individuals, find this word highly meaningful.

The word justice has been used and interpreted in different ways. The most common understanding is that justice means getting what one deserves. However, what is considered deserved or deserving may vary from person to person and across different contexts.

Justice is not a static concept; it evolves and changes along with changes in social values and understanding of fairness within a society. However, a lawful society cannot function or even exist without having Justice as one of its core values.

Justice provides the core principle on which a legal system is built.

Justice is generally understood through three dimensions:

Distributive Justice (The “Who Gets What” Model)

It represents the distribution of resources, opportunities, rights, and burdens in our society. It

opposes the notion of “who wants what”; instead, it focuses on “who deserves what”.

It questions: “How benefits and burdens should be shared?”

It is based on three principles:

- Equality: Everyone should get the same amount of benefits.
- Equity (Need-based): People who need more should get more.
- Merit: People who contribute more should get more. It’s not about crime; it’s about fair share.

Retributive Justice (The “An Eye for an Eye” Model)

It focuses on the idea that the punishment should meet the gravity of the crime. One should not be punished more than what the offence deserves.

Simple premise: if you break the rules, you must pay a proportional price.

Let’s take an example to understand: A driver getting a speeding ticket was supposed to pay a heavy penalty fine, but not a lifetime imprisonment.

The penalty serves as a consequence for the wrongful act, but with proportionality of the crime.

Restorative Justice (The “Healing and Repair” Model)

Its main goal is resolution, rehabilitation, and restoration of what has been lost or damaged, rather than solely depending on punishing the wrongdoer.

It questions: How can the harm be repaired?

Example: A juvenile who damaged the property may be required to apologize, compensate, or help in repairing the damage.

So, we can conclude that: Justice is an ideal. It represents our collective sense of fairness, morality, and what we believe to be right and true. It is abstract we cannot touch it. Justice is felt rather than written. It is the standard by which we decide whether a legal outcome is truly fair and right.

III. LAW: THE PATH

The term “law” has its roots in the ancient Germanic language. It is derived from the Teutonic word “lag”, meaning “something laid down” or “fixed”.

There is no universally accepted single definition of law, as the concept of law varies from place to place (for example, same-sex marriage is legally recognized in countries such as Canada, whereas it is not legally recognized in India) and according to different personal beliefs in society (for example, personal laws such as Hindu law and Muslim law).

The tension between legal recognition and evolving social justice is visible in cases like *Supriyo @ Supriya Chakraborty & Anr. v. Union of India*, 2023 INSC 920, where the Supreme Court of India declined to legalize same-sex marriage, leaving the matter to parliament.

IV. DEFINITION OF LAW – WHAT LEADING JURISTS SAY

Different jurists have adopted different approaches to define law. Among the most influential are John Austin and H.L.A. Hart, whose theories have significantly shaped modern jurisprudence.

John Austin

John Austin, the Father of English Jurisprudence, was an English Jurist, philosopher, and professor of jurisprudence.

Austin defined law as “A rule laid down for the guidance of an intelligent being by an intelligent being having power over him”.

He also stated that “Law is the command of the Sovereign”.

H.L.A. Hart

H.L.A. Hart was one of the most influential jurists of the 20th century.

Hart argued that the law is a system of rules, not merely a command backed by sanctions. In his work *The Concept of Law*, H.L.A. Hart divided the legal system into two types of rules:

Primary rules and Secondary rules.

- Primary Rules:

These are the rules that impose duty or obligations on members of society. These regulate the conduct of an

individual. These tell what one can and cannot do. Example: Criminal law, Laws of tort, etc.

- Secondary Rules:

These rules make the legal system flexible and certain by providing the procedure to create, change, alter, and enforce primary rules. Hence, it gives people the power to make laws.

We can conclude that the law is concrete. It consists of rules, procedures, and institutions created to maintain order in society. Law is not the destination; it is the path. Justice is the destination.

V. WHEN LAW AND JUSTICE CONFLICT

In an ideal world, law and justice should go hand in hand. Laws should be made to promote justice, and courts should interpret those laws in a way that fosters fairness. However, in reality, there are situations where law and justice seem to conflict.

Sometimes, the strict application of the law results in a situation where the legal outcome and society’s perception of justice do not coincide. Law operates on fixed principles, rules, and regulations, and procedural safeguards to maintain consistency and fairness. While public response to serious crime is often shaped by emotional outrage or empathy.

However, this does not mean that the law remains static. As society evolves and new challenges emerge, legislatures may reform existing laws to address identified gaps and better serve the interests of justice. A landmark example is the *Nirbhaya* case of 2012.

In this case, one of the accused was a juvenile who was approximately few months short of reaching the age of eighteen. Given the gravity of the crime, the whole country wanted him to be tried as an adult, but the court was bound to apply the law as it stood at the time, and he was tried as a juvenile under the *Juvenile Justice (Care and Protection of Children) Act, 2000*. As per the said law, the maximum punishment for such a crime was three years in a Special Home, along with counselling, education, vocational training, or rehabilitation measures, regardless of the seriousness of the offence.

So, he was sent to a special home for three years, whereas all the adult accused were convicted and later sentenced to death. (*Mukesh & Anr. v. State (NCT of Delhi)*, (2017))

This sparked the public debate on whether the present juvenile justice law adequately addresses heinous offences committed by older adolescents.

In response to the widespread public debate, Parliament introduced the Juvenile Justice (Care and Protection of Children) Act, 2015, which introduced a provision allowing children aged 16 to 18 years accused of heinous offences to be assessed by the Juvenile Justice Board. If the offence met the statutory criteria, the case may be transferred to be tried as an adult.

The case illustrates that while courts must follow the existing law, the legislature can reform the law to address the gaps in the law to reflect the society's evolving concerns and promote justice in future cases. In serious cases like murder or sexual offence, law and justice seem to conflict as the requirement of proof beyond a reasonable doubt lies on the prosecution, as criminal law demands a very high level of certainty in grievous offences before imposing its punishments. Even a small procedural lapse can weaken the entire prosecution's case. It is because when a person is about to lose their liberty for life, or even death in some cases, the stakes are simply too high.

The law doesn't become casual when allegations are serious and public perception of justice seems shaped by emotional outrage. Every procedure must be followed strictly, not out of rigidity, but to ensure fairness and to avoid the risk of punishing the wrong person. Although this may sometimes create a gap between legal outcomes and society's perception of justice, these safeguards are essential to preserving the rule of law.

VI. THE TRUE PURPOSE OF LAW

Conflict is inevitable wherever human beings live together. So, the law doesn't eliminate the dispute altogether; it provides an orderly framework through which a dispute can be resolved.

The law provides clear rules, legal principles, and procedures that help in achieving justice while maintaining peace and stability in society.

One of the major purposes of law is to safeguard citizens not merely from each other but from the government itself. The law ensures the fair distribution of power among the government authorities and ordinary people so that those in authority cannot act completely on their own.

We must understand that the primary purpose of the law is not merely to enforce rules. The ultimate purpose of law is to achieve justice — to promote equality and fairness in society. But there will always be moments when the law appears insufficient, and when society must ask itself: Is legal correctness enough?

So, I leave you with this thought:

If a decision is perfectly legal but feels deeply unfair, have we achieved justice — or have we merely followed the law?

Justice is ethereal; law is codified.

Justice is an ideal; law is merely a path to get there.

Justice is abstract; law is fact.

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