

“THE PERCEPTION OF JUSTICE”

The wheels of Criminal machinery are complex and multifaceted. They have to work in tandem with a diversity of variables, which include a flock of Laws and Regulations, agencies such as the Police and Courts, and settle disputes while serving the ends of Justice. Ideally this has to be done in a swift and smooth manner with the ultimate aim to serve justice to the beneficiaries and stake holders. One has seen that the letter of Law is often a step or two behind the needs of society, which is in a continuous state of change. This complicates matters further as more often than not by the time justice is served, it is delayed and thus denied. This delay is unavoidable as the number of cases is ever increasing, while the rate of disposal is not going up.

Whatever the current situation may be, the central vein or fundamental basis of the entire system is still the delivery of Justice. This has to be tendered to the concerned parties in its purest form. But the question is whether Justice is limited to the passing of an order by a Court of Law and disposal of the case or does it go far beyond? Thus, in essence the two important questions are-what is 'Justice' and does it actually exist?

Justice is a rather subjective idea which is confused with the concept of ethics, morals or even beliefs. What may ethically be correct for one, may be unacceptable to others. And consequently, one must firstly keep in mind that ethical levels of right and wrong are not the criteria to ascertain whether a verdict is just or not. In reality, ethical reasons are perilous as nearly in most cases, they would be subjective. So, to understand justice or at least in the pursuit of grasping it, a conscious effort ought to be made to keep extraneous factors such as morals, personal principles and other variable ideologies at bay.

Justice is not a mathematical craft either. Though logic may demand that a simple arithmetical distribution would lead to proper application of the notion of being fair, since the rights of the parties are equal, is wrong. Sometimes an unequal distribution of resources is the best possible way to settle a dispute. One such example is a situation where two siblings are arguing over an orange. On enquiry by the deciding authority (The father) the boy admits that he wants the juice, while the girl wants the skin alone for the purpose of making a face mask. In this example if the needs of the two parties (Siblings) are not known, cutting the orange in half would seem like the most logical step. But once the needs of both children are clear, a rather unequal and unfair distribution of the juice and the skin is much closer to the idea of justice being done.

An offshoot of the fundamental principles of Natural Justice, is the rule that “Justice should not only be done, but seem to have been done”, meaning thereby that Justice should be achieved inherently as well as on the face of it. This poses a peculiar problem with the common man. Whenever justice is done according to the procedure established by Law, it may,

in some cases, *Prima Facie* seem unjust. A glaring example of this could be seen in the recently concluded infamous 'Nirbhaya' case where one of the accused was a juvenile at the time of the commission of the offence. His role in the gang rape and murder was about the same as the others, but he got away with only three years in a juvenile home, while his other co-accused were hanged. In the eyes of the common man, this was 'not fair', though legally speaking absolutely correct.

A precisely reverse example could also exist. Speaking of the recent case in Hyderabad where two accused of gang rape and murder were shot in an 'encounter' by the Police who acted as the Judge, Jury and executioner. This was something that was entirely not in consonance to any law or for that matter, any procedure of Law, thus resulting in a miscarriage of Justice. Though the common man was of the opinion that the action was excellent and Justice was swiftly delivered to the poor victim. Though the emotional quotient in the above case was high, the complete breakdown of judicial process cannot be denied.

So lastly in conclusion can a form and factor be pinned to the perception of Justice? Well not in the perfect sense, nevertheless to a certain degree yes. Firstly, Justice ideally should be seen to be done. Seen by those who are not parties to it, hence the public. Ironically though their idea is higher in EQ, the *vox populi* is significantly important. Secondly the adjudicating authority, should use and apply only the letter of law as much as possible. No Law is perfect, but if it is in force, then it has to be used verbatim. The voids and areas of discretion should be filled by the adjudicating authority in a fair, non bias and objective manner. Any kind of personal opinions, viewpoints as well as external influences should be kept at bay.

Thirdly another factor that has to be kept in mind is that ideally both accused and the victim are at par though one tends to see the victim with compassion and the accused with resentment. But to attain justice between these two sides in a model situation, the system should adequately compensate the victim, while bringing atonement to the accused. A balance which is not hard to reach, though difficult.

Thus, in conclusion does ideal Justice exist? In the absolute sense, yes, though not in a real-world scenario. With the pure application of the letter of Law, along with true fairness and an unbiased judgement one could inch closer to it. Ideal justice is only possible in the hands of God, but of course his existence, propelled by arguments by atheists, should be left to debate on some other day.

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