

DECLARING JUSTICE TO BE A HUMAN NEED

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Abstract

Few in the modern world would deny that justice is a matter of fundamental importance for all members of every society. Its breaches cause dismay among fair-minded people, and its restoration brings relief. Its promotion and maintenance is a costly exercise in terms of personnel, buildings, public and private finance. Professionally forensic and social psychologists are aware of its importance, yet rarely do they or their academic associates address the topic. The few exceptions are mentioned here, with a theoretical framework in the hope of redressing the issue.

Introduction

As many will know, Quakers have no set creed, but they try live by the four testimonies or tenets of truth, peace, peace and social justice. A potted history reveals that State persecution of their forebears from their origin in Britain the mid 17th century led them to campaign against the brutality and inhumanity of prison conditions (cf. Taylor, 2011). About 150 years later the task led Quaker Frenchman and former prisoner-of-war Stephen Grellet to be concerned with the plight of people consigned to Newgate Prison in London. He in turn influenced Elizabeth Fry, and thus began a Quakerly concern that spread to a number of countries. It brought improvements in the care and containment of prisoners that continues to this day.

With such initiatives in mind, I invite you to consider the concept of justice, and to reflect on the adjustment of attitudes required to proximate the ideal.

First I shall mention of my own awareness of the topic as an employee in the Department of Justice (since re-named Department of Corrections), and follow it with reflections on the different personal and social regulatory systems of behavior. Then, after addressing justice *per se* and commenting on its substantial neglect by most schools of psychology, I shall offer a re-statement of Abraham Maslow's theoretical model that might usefully accommodate the changes I have in mind. (Here Occam's razor is to be preferred in building on an existing theory rather than starting another afresh.)

Professional interest

My professional interest in the topic was prompted by a few cases of startling injustice I encountered as a prison psychologist long ago, not all of which could be corrected by the legal system. The first concerned two inmates, one of whom admitted that he had committed the offence for which the other was imprisoned. Another concerned a

young man who pleaded guilty to rape, believing he had gone too far too fast with his girl friend. Her father visited him while he was on remand, and supported the couple becoming engaged. The accused tried to change his plea, but the Court did not allow him to do so. Eventually he was given the 'standard' sentence of four years imprisonment that applied at the time. When he was released the couple married, had five children, and remained together happily.

Another case, that fortunately proved 'correctable', concerned a man whose lawyer had advised him to plead guilty to a charge of bigamy, when he had a clear statutory defence against the charge. Soon afterwards he broke out of prison to assist his new wife cope with a difficult pregnancy. However, a discussion about the facts with a friendly police inspector led to the original charge being withdrawn, no charge being laid for the escape, and the man being freed to return to his suffering second wife.

Thoughts on regulatory systems

We do well to remember that the written law is not sacrosanct. It embodies the assumptions, attitudes, and desires of a community that obtain over a given period. Consequently it requires adjustment from time to time to reflect changes in those basic components. Such was the case for example in New Zealand with the abduction of heiresses and the prosecution of young women going aboard ships alongside the wharves as guests of the crew.

Occasionally parliament changes the law ahead of public opinion. Consider, for example, the uneasy acceptance of consenting behaviour between homosexual males in private, and the recognition of brothel-keeping.

Such matters led me to reflect on the essence of justice, and the inter-relationships between religion, custom, morality and law. They led me to realize that systems of beliefs and values echo down the ages in every society. They give core to our being, bring a degree of unity to communities, and corporate communality between diverse communities.

On further reflection it can be said that justice differs from other regulatory systems, in that:

- law is established either in general by precedents or specific statutes in a given jurisdiction at specific times
- custom is the unique pattern of behaviour that communities adopt to ensure their cohesion and continuity
- morality is the quintessential code of values by which individuals order their lives
- religion is a dominant super-natural force with which sectors of the population align themselves with distant forebears, seek guidance in the present-day, and accept destiny for the future.

A seaman serving 4 years in prison for manslaughter made clear the difference between the ruling codes. He had knifed a shipmate who had called his girl a slut and was in a turmoil because although he had defended her honour, as the social custom of seamen expected, he had broken the law, a religious commandment, and the moral code of his family.

Reflections on justice *per se*

At the time of the Reformation in Britain, after layer upon layer of laws had been imposed by the Romans, the Saxons, the Danes, and the Normans, John Warr (1649, p.2) reminded his fellows that:

‘At the foundation of governments justice was in men before it came to be laws...(and, he asserted) Laws upon Laws do bridle the People and run counter to their End...This is the Origin of unjust Laws.’

More recently lawyer John Rawls (1999) decreed that laws should allow for the maximisation of liberty for each individual, compatible with that for others. He argued that the principles of justice are those that free and rational people, operating behind an otherwise ‘veil of ignorance’, would adopt without fear or favour.

Soon afterwards psychologist Melvin Lerner (2002) pointed out that justice alone had the power to legitimate and at times to command the sacrifice of life, liberty and happiness. For that reason he considered justice paramount to all other norms and values.

Hence justice can be seen as a nebulous but far from negligible concept. Under the auspice of the United Nations it has become accepted as a universal human right. Its preservation commands an inordinate proportion of the economic, security and social capital of every nation. At regular intervals politicians of all parties are known to monitor the public’s perception of it, although not always for purposes that are entirely worthy.

Such growing awareness led me to broaden my inquiry from criminal justice, to include civil justice between aggrieved parties, and then to the traditional Quaker concept of social justice between the advantaged and the disadvantaged. I thought the combination could even be used to provide occasional thermometer readings of a community’s social well-being.

The search led me to affirm that in a broad sense, justice was an essential precondition for approximating ‘the good life’. It went some way to foster reciprocal relationships between people that are essential for their mutual wellbeing. In short, it led me to construe justice as a basic human need that is essential for personal and social development and well-being.

Psychologists and justice

However, despite the importance of justice, none of the leading clinicians and personality theorists such as Adler, Bowlby, Freud, Jung, Horney, and Rogers paid it attention, neither experimentalists like Bandura, Hull, Spence, and Tolman, nor even empiricists Edwards and McClelland. (Taylor, 2003). Developmental psychologists Kohlberg and Piaget did raise it, but only in relation to the beliefs of children in a 'just world'.

In fact, among psychologists of all persuasions, Abraham Maslow (1954; 1970), the founder of the humanistic school, was the only exception. Yet in his publications even he alluded not to the positive aspects of justice, but to its antonym, injustice. Then he stopped short of incorporating the concept fully into his well-known framework of basic human needs (cf. Fig 1).

Figure 1. Maslow's Motivational Hierarchy



Understanding Maslow's diffidence

It is difficult to understand Maslow's hesitation to rank justice fully as a basic need, except that he theorized at a time when objectivity dominated the intellectual landscape and deepened the rift between academic and applied psychologists. The controversy led one faction to cut loose from the discipline's philosophical roots in

order to be seen exclusively experimental and 'scientific', and the other to retain a commitment to quite different areas of applied research.

Throughout his personal life Maslow seems to have pined for justice. He was the eldest child in a large Russian/Jewish refugee family in New York, with an absent father and an irascible dominating mother who berated him so much that in later years he refused to attend her funeral (Hoffman, 1989). Then in the university world he encountered antisemitism that affected his career, except years later when Adorno Frenkel Levinon and Stanford (1950) involved him as a discussant of their research into racial prejudice and Nazism. Finally, to his credit, and theirs, in 1968 the American Psychological Association elected him president.

Then in his presidential capacity Maslow wrote as one of 19 eminent psychologists in support of the report of a National Commission on the widespread riots in America. They attributed the riots to 'conditions of discrimination, poverty, and unemployment..(that) have their roots in racial prejudice', and they went on 'strongly (to) urge that direct action be taken to combat these unjust conditions' (Hoffman, 1988, p. 308).

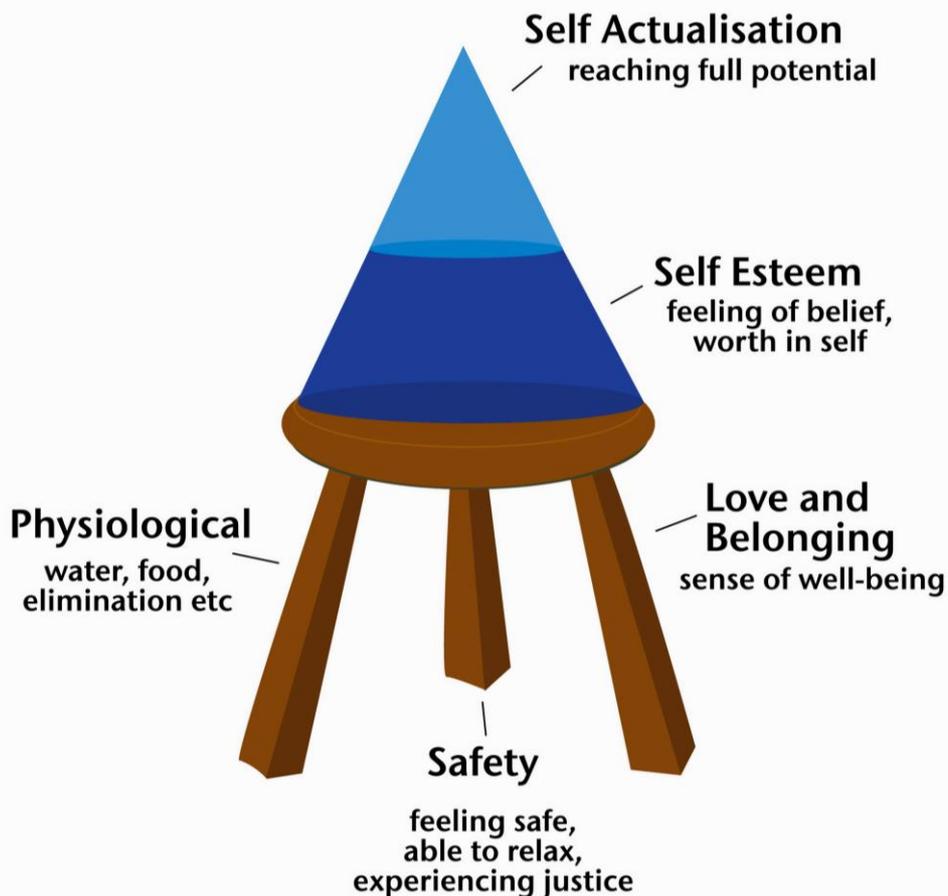
Extending Maslow's conception of justice

Partly to pay tribute to Maslow, I extended his concept of justice in an article that *New Ideas in Psychology* published (Taylor, 2003), and I developed it later by editing a book on the subject (Taylor, 2006). The former broached the topic with a fresh diagrammatic model, and the latter went further with contributions from 15 academics and practitioners in different intellectual disciplines concerned with justice.

Specifically the book carried chapters from an anthropologist, a clinician working with refugees who had been traumatized by torture, a developmental psychologist concerned with the transmission of values, a forensic social worker addressing the consumer rights of mental patients, two forensic clinicians, a constitutional lawyer, a human rights lawyer, a philosopher/psychologist, and a theologian. Its final chapter covered the few empirical studies that independently seemed to validate aspects of Maslow's theory, and it concluded with an appeal for more scholars and researchers to follow suit.

Collectively the outcome proclaimed justice to be an essential precondition for establishing a secure and stable society in which individuals might find fulfillment, i.e. the consensus of contributors considered justice to be a basic human need. It led me to replace Maslow's familiar triangle with the model of a three-legged Welsh stool, each leg of which stood for basic needs that had to be met before the structure was sturdy enough to allow self-esteem and self-actualisation to develop. Thus one leg stood for physiological needs, a second for love and belonging, and a third for social security that included justice (Fig. 2).

Figure 2. Maslow's schema refigured to include justice as a basic human need.



The article continues to attract the attention of subscribers to *LinkedIn* and *ResearchGate*. As for the book, Shad Maruna, Dean of Rutgers School of Criminal Justice, formerly of Queens University Belfast and Cambridge University, described it recently as 'absolutely first rate with a great line-up of chapters' (email from the New York publisher *NovaScience*, on 3rd March 2015).

Such support encouraged me to present the topic in a keynote address to the 2011 US National Organisation for Victim Assistance, and to the 2015 Third Asian Conference of Psychologists, and to share it with Quakers Friends.

Conclusion

Justice observes contractual rights, gives protection from criminality, and affirms the principles of living on which social harmony depends. It is a basic human need, and deserves to be recognised as such.

To take the matter further with empirical research requires the support of academics, practitioners and researchers with broad interdisciplinary training, the likes of which have yet to appear in abundance. May future generations provide them.

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