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18. THE BROOM AND THE WATER IN SOCIAL JUSTICE

There is an old adage that asks ‘what’s worth more, your money or your time?’ To the modern legal system, this question has come to dominate the entire question of justice. I believe that this is the result of the modern religion of materialism – by this I mean: The only thing that can be trusted is physical results. If it cannot be touched, weighed, or counted, it does not really exist.

Enlightened philosophy in most civilized countries have outlawed torture and execution so the only remaining response one can give when asked if justice was done is to view it in terms of dollars and cents or time served.

This is especially difficult to deal with when one is trying to understand the term ‘Social Justice’. Of course, one could go straight to the denotation of the term from any dictionary at hand. For example, *The Handbook of Social Justice* states on its dust jacket that the expression:

... refers to the concept of a society in which justice is achieved in every aspect of society, rather than merely the administration of law. It is generally thought of as a world which affords individuals and groups fair treatment and an impartial share of the benefits of society. ... It can also refer to the distribution of advantages and disadvantages within a society. (Kakanowski & Narusevich, 2010)

However, when seeing how this term plays out in reality, things are not as clear-cut. In fact, to the person on the street there is very little notice given towards social justice issues, except for those that are pointed out by the media. Personally, I think this concept must be broken down into two halves: the ‘social’ and the ‘justice’ aspects which bisect in some places, diverge in others.

Let us deal with ‘justice’ first. Seen generally as a concept of moral rightness based on ethics, rationality, law, natural law, fairness, religion and/or equity (Konow, 2003, p. 1188), it is said to be quite distinct from other human instincts of charity, benevolence or compassion. Allegorically depicted as Lady Justice (after *Iustitia*, the Roman Goddess), the judicial system is intended to be driven solely by a desire to reach a fair decision (symbolized by the balanced scales in her hand), impartially unmoved by politics, kindness or empathy (symbolized by her blindfold), and to punish the culpable (symbolized by the sword in her other hand) (Hamilton, 2005; Fabri & Langbroek, 2000).

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Divorced from the term social, however, what becomes of justice? The Puritan writer John Bunyan (1678/1883) gave a very apt analogy to this issue, one that I first read several years ago, and which stuck with me ever since. In his allegory, *Pilgrim's Progress*, his main character, Christian, meets up with the Interpreter:

Then he took him by the hand, and led him into a very large parlor that was full of dust, because never swept; the which after he had reviewed it a little while, the Interpreter called for a man to sweep. (p. 110)

It becomes quite clear that this parlor is, metaphorically speaking, the heart of man, and the dust his original sin. The broom is seen as the law and should be the primary means of ridding the soul of inner corruption.

For me, there was a much stronger contemporary social message that accompanied this essentially individual analogy. Could not the parlor represent the state of the world itself? There are a lot of dirty things going on. Corruption, inequality, persecution, violence, rape, murder, and injustices exist everywhere. The broom must be seen as the cleansing agent of these foul things. But are the courts of law by themselves a truly satisfactory cleanser? Every day, all sectors of society exhort citizens to believe this fact. If you are wronged, take it to court. If you see something suspicious, call the police, but don't get personally involved. The most important message that is put to the public is: 'don't take the law into your own hands.' Taking the law into your own hands is formally defined as, "to do something illegal in order to punish someone because you know that the law will not punish that person" (Cambridge, 2006). Justice must be left for the courts to decide. This is highly supported by all forms of media. Superheroes aside, I have rarely watched a film where a vigilante does not wind up being punished as severely as the perpetrator of the original crime. And if they are not dealt with by authorities, the movie tells the public in no uncertain terms that this anti-protagonist will spend a lifetime tortured by inner demons.

But what does this say for people's relation to the justice system? The underlying message is that ordinary citizens should go about their private concerns and leave the law-making and meting out of justice to the professionals. It is almost as if we are extending the *parens patriae* clause in the law (whereby the state can become the protector of children against abusive or negligent natural parents). The call here seems to be for the extension of the net: protecting us all, and in so doing reducing us to the status of children within society. All people should bring all problems to the court, including money matters, theft, abuse, marital problems and race issues.

However, returning to Bunyan's analogy, helps in pondering what kind of job the broom does on its own. The tale continues:

Now, when he began to sweep, the dust began so abundantly to fly about, that Christian had almost therewith been choked. (Bunyan, 1678/1883, p. 110)

In other words, the broom by itself is quite ineffective. Bunyan draws on scripture to show that "instead of cleansing the heart (by its working) from sin, doth revive, [Rom. 7:9], put strength into, [1 Cor. 15:56], and increase it in the soul,

[Rom. 5:20], even as it doth discover and forbid it; for it doth not give power to subdue” (p. 110–111). Essentially, when the broom does its thing, a great stir is created, but people are blinded to certain issues. Without a binding agent, each speck of dust is dealt with by itself. The broom tries to shuffle it away from the ground and out the door, but it flies up, out of reach and eventually settles somewhere else. Thus, while change occurs, the ordinary citizen never feels a sense of justice or relief.

If murder takes a life, can it be restored? Even if the murderer is given a twenty-five year prison sentence, the victims are not relieved, and citizens are nagged by the thought that there will just be another person in the prison system taking up tax money. Larger social issues, like the Canadian example of Native residential schools, have come to play a great role in our modern psyche thanks to the media. Taken from their homes and culture, many aboriginal children were forced to go to boarding schools run by the Christian Churches throughout Canada. Sanctioned by the government, these schools had free rein to govern themselves as they carried out assimilation, intimidation and in some cases sexual interference. After years of pressure, when cases were brought to trial and decisions were made in favour of the aboriginal plaintiffs, the only result was an apology and the awarding of monetary compensation. All of these decisions and remunerations leave the victims, the guilty and the spectators with a feeling of ennui and disillusionment.

How does a system become so? With no connection to the everyday citizen, the courts become a self-perpetuating mechanism. Judges, lawyers, bailiffs all become people just doing another job with little care for justice as the outcome. The larger concerns on their minds are the overcrowded prison systems and the long docket list. And as the courts become more centralized, these lists become greater, the prisons more overcrowded. In essence, and to return to the Bunyan analogy, I feel that what has made the parlor of our lives incapable of being cleaned is our sense of *anti-social justice* that we cling to. This is the belief that some power beyond ourselves will solve the problem – the legal system, the government, the penal system, the youth courts, and so on. It is through this series of buck-passing that no dust can be swept away.

What is the solution to this dusty problem? Again, I return to Bunyan (1678/1883), who wrote:

Then said the Interpreter to a damsel that stood by, “Bring hither water, and sprinkle the room;” the which when she had done, it was swept and cleansed with pleasure. (p. 110)

Now, Bunyan has a clear message here that was inextricably tied to his faith. He saw the water as the Gospel. In mixing it with the Law, sin becomes subdued and the soul can be made clean. To make his point, he cites the Biblical passages John 15:3, Ephesians 5:26, Acts 15:9, and Romans 16:25, 26 (see p. 111). In this, I would see a more ecumenical message. I see the concept of ‘social’ as the great binding agent:

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Social refers to a characteristic of living organisms (humans in particular, though biologists also apply the term to populations of animals and insects). It always refers to the interaction of organisms with other organisms and to their collective co-existence, irrespective of whether they are aware of it or not, and irrespective of whether the interaction is voluntary or involuntary. (“Social” as defined in *Wikipedia*)

So, whether or not we deny it, the impulse of our nature is to get involved. To not do so is to deny our humanity. The dust is free to fly in the air when we as a society lack a centre or understanding of why these problems are being dealt with in the first place. The water is the unifying force that acts as a bridge between the broom and the dust. And that ‘water’ is our social nature and our involvement as citizens.

My point here is that ‘social justice’ may stand for creating a just society for all to live in harmony and equality. However, it cannot be dispensed by a seemingly inhuman system perceived as being disconnected from the human experience. For that reason, it is just as important for social justice to be seen from the other side – justice being dispensed *by* society as well as *to* society.

Until recent times, the entire justice system needed involvement from all areas of society. I draw the readers’ attention to a number of examples. In the Brehon (or Celtic) Law system, the honour system played a great role as there existed no police force and a very limited pool of law-givers and dispensers. As Shakespeare would say, “who steals my purse, steals trash, but he that filches from me my good name robs me of that which not enriches him and makes me poor indeed” (1901, p. 84). For in this system, honour – to a larger extent, a spiritual, duty-bound component – plays a role. If a man should kill another, he would not go to jail (no jails existed), nor would he be executed (which would start just a clan feud). Money could be exchanged based on the honour of the person he killed. However, an interesting clause did exist whereby the killer could become the victim. He could take on the dead man’s family as his own, care for them, protect them, feed them and help them prosper. In so doing, the restitution paid to the dead man is that of empathy on the part of the attacker.

Another ancient tradition of Celtic background was that of the Hue and Cry. When pursuing a thief or other criminal, the High Reeve could raise a posse by shouting that a crime (murder, robbery, assault) was being committed. All within listening distance were then obligated by honour to join the pursuit until the perpetrator was caught or the hunt called off.

When did the change take place? When did justice switch from a social invention to an anti-social process? For this, I turn to the sage thinking of the Marquis de Sade. Originally, to execute a criminal was a social thing, and an event that was held with both attraction and repulsion. It was a long process, taking time to perform the various tortments to the body: drawing, quartering, pulling apart by animals, beheading, and etcetera. This had a series of repercussions. In the criminal’s torment, it formed an unspoken bond between the tortured, the torturer and the onlookers. This was

a performance in the theatre of justice. At no deeper level could all stakeholders be more involved. Like a living sacrifice, it was to be performed rarely. However, with the invention of the guillotine, the rules changed. It became mechanistic. Who was killing this person? A machine – not us. What was lost was any involvement or culpability in the eyes of the onlookers. With their hands washed, citizens could now look on executions as mere spectacle sport. And the given the notion that the guillotine was humane, where was the harm? In the film *Charade* (1963), Inspector Grandpierre states emphatically: “I have always imagined that the blade, coming down, causes no more than a slight tickling sensation on the back of the neck. It is only a guess, of course.”

Of course, there was harm – it made death easy. At the height of the terror during the French Revolution, 300 people were killed in 3 days (unheard of in past generations). This could be achieved based on the removal of citizen involvement from justice. This mentality, although not as dramatic, has persisted to this day in the form of buck passing.

Of course, some honour-bound actions are still on the books in almost every country of the world. For example, there is a clause in most criminal codes that allow for a so-called ‘citizen’s arrest’ in which any person can bring a felon to justice through their own powers. They cannot, of course, try this person – arrest them, then just hand them over to the authorities to do the rest. The question remains, how often does a citizen arrest happen?

The final example I will give of involvement in the law is the modern day jury. A rarity for most, but a serviceable relic of the English tradition. Having just recently sat on a jury, I could see how it was a return to the pre-Guillotine days. As all the potential jurors sat in the waiting room, I could see the anxiety written across everyone’s face. This process was a disturbance, something that took them away from their ‘normal’ lives. For the first time, except for those who had done military service, most participants here saw this as a force greater than their family or economic necessities driving their actions. I talked with a number of them and their reactions differed greatly. Some had a grim determination, others a lighthearted interest. Many sat, thinking hard on how they could get out of this duty. However, as the day drew out, many became resolved to their fate and began talking about the snippets of the case that we would potentially sit on. This led to discussions about law in general, about society and civil codes in general.

In the end, having been placed with this group of strangers to serve on the jury, I must reaffirm my belief in this form of ‘sociable justice’. Given the situation, most people think carefully about the enormity of the situation in which they have been placed and will be determined to “do the right thing”. This, of course, depends on their definition of right. At least, however, they all seemed more than eager to act rather than remain passive.

Of course, when we deal with these issues, I believe it is enormously important that we should be educating for social justice. And this must go beyond the most recent spate of inclusions in curriculum documents that call for social justice

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‘for’—for minorities, for women, for people in need. I now believe that as part of education, students should be taught about social justice ‘by’. Students must come to see themselves not simply as consumers of social justice (“I want my equal rights”), but as people who engage in ensuring that social justice becomes a reality. In doing so, the definition then begins to expand past the mere concept of courtrooms and hand-outs from the system. Instead, students will see social justice as actions that take place in the home, the street, the school and the community. With this type of education, using John Bunyan’s terms, students will realize that the water and broom are necessary components for social justice, and that the heart of a nation cannot be separated from the rest of the body and still continue to beat.

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