Overview of the moral theories of Justice: part one

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INTRODUCTION

Justice is regarded as the greatest and most fundamental moral virtue, overarching and taking precedence over all others. Equally, however, Justice remains the most contentious moral, ethical, political and social issue of our time. Hence any attempts to define and describe Justice accurately, scientifically and exhaustively, will have limitations, which supports the multidimensionality of the nature and meaning of the concept.

Justice is derived from a Latin word "jus" meaning right or law. It therefore follows that a just person obeys the law (lawful) and does what is right (morally, ethically). Synonymously, Justice means fairness, that is giving to persons what is due to them.[1] Philosophical enquiries on the concept of Justice as described below interrogate the nature and or character of Justice, and its application specifically in a political society. This elucidation of Justice will provide the basis for application of this complex concept to health care and oral health in particular. To capture this concept fully, this paper, which is a prelude (part one), will explore and define the construct of Justice. The second paper will provide application of the concept to oral health care.

FOUNDATIONAL DEFINITION OF JUSTICE

Ancient and Medieval philosophers

a). Plato and Aristotle (Ancient Greek)

Plato and Aristotle are undoubtedly the most celebrated and influential early philosophers, credited for shaping much of the Western moral thought. These scholars conceptualised Justice and brought to the fore its essential form. They jointly defined Justice in terms of its characteristics or quality that makes all things that are just, just. Plato and Aristotle defined Justice as a component of general virtue, that is the particular excellence of a thing, or something possessed by a thing or some quality of a thing that enable the thing to do what it does very well.[2,3]

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Figure 1. Plato and Aristotle as depicted by the Italian Renaissance artist Raphael in his fresco entitled "The School of Athens".

Following this discourse, these scholars were able to construct and understand Justice and its implication in achieving its inherent purpose. The exploration of Plato and Aristotle's philosophy will assist us to understand the general and specific nature of Justice. That is, understanding fully the quality of Justice that allows the individual and society to do what they are meant to do very well: to live in harmony.

In his celebrated work, The Republic,[4,5] **Plato** defines Justice as a critical virtue necessary to establish societal order. At a personal level Justice embodies personal order that is individual goodness and obedience of laws. According to Plato an individual is just insofar that he can achieve:
i). wisdom or Justice of the mind
ii). temperance or Justice of the senses
iii). courage or Justice of the heart

These individual dispositions are characteristics that enable Justice to be achieved. At a societal level Justice is synonymous with piety, which symbolises a relationships with god(s) and the laws governing the Republic or State.

This form of Justice promoted harmony and non-interference among citizens of the Republic, by emphasising the need for boundaries among individuals and classes of people. Therefore, in a just society, persons would demonstrate self-control, non-interference, obey the law and have a relationship with deity. This definition provides the attributes of Justice as a central tenet of a well-functioning society.

Albeit helpful, the definition fails to indicate how and what Justice is, and how it could be realised. In other words, Plato did not clarify the roles of the State and individuals in bringing about Justice for all in the Republic, but rather what they ought to be like in building a just society.

Aristotle[6,7] operationalised Justice as the quest to "treat equals equally and unequals unequally".
Politically, Aristotle's Justice was concerned with what is lawful and fair, hence the coining of the special forms of Justice, i.e. distributive and retributive (restorative) Justice. Retributive Justice is concerned with reparation, thereby ensuring that when societal rules of "fair play" have been violated, wrongs are righted through some legitimate mechanism. Distributive Justice or proportionate equality, means that to every man would be accorded dues, rights and rewards according to merit (desert), effort or contribution.

The disbursement of Justice, if based on need, would entail treating unequals unequally in order to achieve equal outcomes. If based on equity, an economic concept, resources would then be allocated based on input, effort, productivity or talent. Apportionment based on proportionate equality disregards needs or productivity while ensuring an equal split of available resources.

For example, each of every four persons would receive 25% of the resources, irrespective of their needs or productivity. The principles of need, equity, equality and outcome are often in tension, which warrants an adoption of a singular central criterion for a fair allocation of resources. Normally, a dominant position of view would determine which principle of allocation supersedes. It is also possible to find a plurality of principles used to allocate resources within a system.

Irrespective of the central criterion selected, the manner in which resources are allocated should be procedurally just, meaning that the adopted system must be fair, impartial, consistent, unbiased, transparent and trustworthy. The definition of Justice by Plato and Aristotle provides the foundational starting point for the understanding of this moral virtue.

b). Augustine and Aquinas (Medieval Christian)

These egalitarian moral theories have their origins in religious traditions and are probably the most intuitive of all moral theories. According to these theories, all men enjoy equal moral status and creation and therefore should be treated equally. The existence of inequalities in a society is a violation of this moral stance, and an indictment on the principle of equal distribution of benefits and burdens.

Augustine's philosophical views on Justice represent a dialectical tension between his Christian beliefs and life under Roman rule. In his work, The City of God,[8] Augustine asserts that all human being are children of God, and are therefore equal and worthy of similar treatment by man and State. He observed that the Romans were self-servicing and used might rather than right in their dealings. This led to his conclusion that the Roman Empire was unjust, by veering away from the pursuit of love, peace, and commitment to service, especially for those who needed it the most. According to Augustine, Rome was unjust and its rules and laws could not be binding. Hence there was no obligation to obey such laws, indeed it was instead moral to revolt against such an unjust system. Another Christian philosopher, **Aquinas**[9,10] believed that Justice was an extension of natural law, which is God's law. Therefore, Justice as a virtue implies that one is in harmony with and should constantly act according to the natural law. These philosophers defined Justice as emanating from Christian morality and the belief in God, His purpose and wish for mankind.

Modern and Contemporary philosophers

Modern and contemporary philosophers represent a resurgence of scholars who challenge the political and religious influence on moral thought. These contemporaries embrace science and independence of reasoning as a means to understand society.

c). Kant, Bentham and Mill (Modern philosophers)

Kant's philosophy is an example of deontology (Greek for science of duty), hence duty-based morality.
Accordingly, what is right or just is inherently right, independent of its consequences, outcomes and or utility. This absolute or categorical necessity requires a just system or person to respect the rights of others regardless of associated circumstances and consequences.[11] According to Kant's theory, i.e. Categorical Imperative, Justice ought to be served unconditionally. To distinguish between a just, right or wrong act, he proposed that the following three formulae be applied:[11,12]

i).   an act is just if it can become universal law;
ii). acts are right if we regard all as intrinsically valuable, i.e. "treat all as ends in themselves and never as means to other ends";
iii). Justice is served when we regard a rational agent as morally autonomous.

Kant grounds Justice in freedom or autonomy of moral agents, and the need to respect others to live their lives as they wish. While Kant believed in moral agency, he thought it necessary to restrict freedom in accordance to universal law. For example, it would be just to defend oneself or imprison offenders as such acts violate the freedom of others. This form of retributive Justice represents a reasonable and logical intervention aimed at restricting such behaviours from becoming universal.

Bentham and **Mill**[11-14] regard Justice as a subservient aspect of utility. These philosophers do not recognise autonomy or freedom as necessary to Justice, but the practicality of ethics and politics in the promotion of the 'greatest happiness for the greatest number'.

Therefore, the state and all its organs must be judged based on its utility (outcomes, consequences) and not idealism. Similarly, legislation and policies should maximise utility for the public.

d). Rawls and Daniels (Contemporary philosophers)
John Rawls is regarded as the most influential philosopher on the subject of Justice as it applies to constitutional democracy. Rawls' Theory of Justice as fairness, proceeds from Kantian morality that persons are 'free', 'rational', morally autonomous and not egotist, thus likely to not serve their self-interest. In his experiment, Rawls recognised natural position, which means persons involved in a social contract have varying interests, power, wealth and other attributes. These factors will naturally result in an unfair social contract due to differences in structural and personal influences.

However, should these persons adopt a veil of ignorance, then the social contracts developed are likely to represent deeply held and shared moral convictions. At this state the individual is neutral and free from influence or biases.

The question he poses is that given these circumstances, of what type of a society would each prefer to be a member of? In other words, what kind of a society would represent a fair or just society, if in its design, members were oblivious or free of assumptions and biases? In summary, Rawls[15-16] developed a Theory of Justice as fairness based on the following principles:

i). Equality of liberties – encompasses rights and liberties normally enshrined in constitutions and laws.
   This supersedes the principles below.

ii). Equality of opportunity – requires that socioeconomic and political opportunities be open to all regardless of circumstances. Therefore, fair equality of opportunity seeks to correct disparity due to natural and social lottery.

iii). Difference principle – in cases where socio-economic opportunities are distributed unequally, they should first benefit all, but most importantly those who are worse off.

Applying Rawls' Theory of Justice as fairness in health systems would incorporate i). freedom of choice - equality of liberties ii). creation of a functional universal healthcare service – equality of opportunity and iii). creation of safety net, such as free health care services for the indigent. In conclusion Rawls' Theory reflects a merger of Platonic, Aristotelian, Kantian deontology, Utilitarianism, libertarianism and aspects of Christian moral philosophy.

Norman Daniels developed a Theory of Justice which focussed on health as a prerequisite to Justice itself. The central premise of this theory is that Justice is achieved when there is equal and fair opportunity "… for all to realise their maximum species - typical level of functioning".[17,18] Daniels premised his argument that healthcare needs were special and morally important due to their contribution to achievement of normal functioning and protection of equality of opportunity.[19] Therefore any deficiency in health will minimise the attainment and maintenance of function; limit range of opportunity and predispose individuals to pain, suffering and unhappiness. Hence, all health activities are just as far as they ensure the fair equal opportunity necessary for individuals to construct and achieve their life plans and objectives. The range of opportunities differ from one society to the other, as a function of the level and stage of development, cultural preferences, material possessions etcetera.

By implication, prioritisation of health needs and implementation of appropriate programmes should be a function of the relative importance attached to health needs and the expected impact on the achievement of life plans, given the intervention. If, for example, if it is envisaged that the deployment of Clinical Associates in rural district health institutions will protect and improve opportunities for individuals to realise their life plans, then such interventions should be prioritised and implemented, as failure to incorporate such plans into the design and policies of the health system would be detrimental to the normal functioning of the individual, and hence unjust.

CONCLUSION

The notion of Justice is fraught with a multiplicity of irresoluble and dominant viewpoints. Each of the theories, while logically constructed, are emotionally laden in suggesting any supreme value or system that Justice should promote. Suffice to say that Justice as a virtue should be conceptualised by its inherent quality to promote fairness and equality, subject to procedural and substantive merit.

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