



Injustice in Australia's judicial system

Agreeing on the concept of 'justice'

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According to s 56 of the *Civil Procedure Act 2005* (NSW), it is a lawyer's job to help administer justice by facilitating the 'just, quick and cheap resolution' of legal matters. Although we may think that we understand the concept of justice, I believe it would be difficult to reach an agreement on what justice actually is.

Naturally, the fundamental ethical norms of our society play an important role in constructing an individual's perspective of justice. The presumption of innocence and an entitlement to legal representation both illustrate how our governments have established norms by way of choosing what they think is ethical.

But is this really the case?

There are several different causes of injustice within the law today resulting from:

- A system run by fallible human beings; and
- When an individual does not have effective access to the law.

The system is not perfect

There are many examples of the legal system failing simply because it is run by fallible human beings. A *simple* mistake can have large consequences. Some matters just don't seem to have much merit unless you look very closely. For example, clients with unpopular causes or mental or social disability may be readily dismissed.

It is much easier to deny justice to an unpopular individual or group. Consider the plight of asylum seekers in recent years. It has almost become 'politically correct' to treat boat people harshly. This is supposedly an attempt to save the lives of asylum seekers trying to reach safety when the real goal is to deter them from arriving in Australia.

It is interesting that both major political parties openly boast about their treatment of asylum seekers. They speak of 'border protection', conveying that refugees are people we need protection from. This is profoundly unjust to asylum seekers who are ultimately found to be refugees and thus entitled to our protection as a basic human right.

Therefore, injustice begins when the community regards one group as unworthy of being treated the way we would wish to be treated.

Access to justice

In civil litigation matters, Legal Aid is often unavailable as funding bodies are likely to prioritise criminal and family matters. A lack of government funding contributes to injustice, especially when opposing litigants can afford legal representation. As a result, this indicates that justice is only available to those who are wealthier.

In other jurisdictions such as the UK, £2 billion (\$3 billion) of taxpayers' money is spent on publicly funded legal advice yearly, averaging \$68.36 per head, as opposed to Australia's \$23. It is unfortunate that Legal Aid is underfunded to fit the government's budget and the result, as we all know, is inequity in the law.

Conclusion

Unless we experience the legal system personally, it is hard to see the legal system's structural issues. But the fact of the matter is that injustice within the law still exists. It may not affect us now, but if we ignore it, we betray one of society's most basic ideals, and we corrode the very system which exists to protect all of us.