

Introduction to Capstone Projects: Intersections of Criminal and Social Justice

Welcome everyone to a new module! We just finished our module that focused on the foundations of ethical philosophies and theories. This week, we begin our exploration of ethics in society by exploring social justice topics.

Throughout this module, students will be working independently to choose and learn about a social justice issue that intersects with criminal justice for their Capstone project.

There are several issues criminal justice officials must react to during various decision-making points in the criminal justice system. Criminal justice officials must frequently respond to broader social problems, such as behavioral health (e.g., mental disorders and drug use), environmental crimes, racial and gender discrimination, and poverty (e.g., hunger and homelessness).

Before we move forward, however, let's take a moment to quickly review some important concepts and theories.

Morality and Ethics

The "big idea" or concept that touches everything we cover in this ethics course is morality. "**Morality**" is defined as "the practice of applying ethical principles on a regular basis" (Souryal, 2015, p. 2). **Ethics**, which is closely related, is "a philosophy that examines the principles of right and wrong, good and bad" (p. 2). In our first course module, we learned about several philosophical theories that proposed principles of judging whether human behaviors were right or wrong, or good or bad.

Justice and the CJS

Justice (<https://dictionary.cambridge.org/us/dictionary/english/justice>) is the condition of being morally correct or fair. Justice is considered **the fundamental virtue** (<https://www.iep.utm.edu/justwest/>) required for social stability.

As part of this major concept of justice, the "**criminal justice system**" is a formal institution created by a society to judge and punish those who violate behaviors deemed immoral by law. Within this context, justice is a state function, and the U.S. "system" is formed by a series of federal and state laws and government agencies (Weisheit & Morn, 2004). History tells us that governments lose **legitimacy** ([https://en.wikipedia.org/wiki/Legitimacy_\(political\)](https://en.wikipedia.org/wiki/Legitimacy_(political))) in the eyes of citizens who perceive injustice in the system. Although we focus on the criminal system, the concept of "justice of the state" in the U.S. extends to the system of civil justice, as well.

Social Justice

Morality, ethics, and justice apply to more than federal and state government laws, courts, and agencies. Ethical behavior is also concerned with social justice. "**Social justice**" may be defined as morality that "exists when society is able to maximize liberty for all citizens without sacrificing the needs of the poor and the underprivileged" (Souryal, 2015, p. 69). Social justice is broader than the related concept of criminal justice. Whereas **criminal justice** focuses on equality before the law, **social justice** may embrace the ideals of human rights to civil, political, social, economic, and cultural equality, as well as non-human rights.



Reviewing the Theoretical Evolution to "Social Justice"

You may be asking yourself why we are broadening our ethical lens beyond criminal justice to examine social justice. To answer this question, let's briefly review the ethical theories that evolved to what is now known as "social justice." These include the general theories of Hedonism and Utilitarianism, as well as Rawl's specific *Theory of Justice*.

Hedonism

As you may recall from chapter 4 of our text, the ethical [school of Hedonism](https://www.iep.utm.edu/hedonism/#H3) (<https://www.iep.utm.edu/hedonism/#H3>) began sometime around 400 B.C.E. Hedonism was in direct opposition to the [school of Stoicism](https://www.iep.utm.edu/stoicism/) (<https://www.iep.utm.edu/stoicism/>), which valued freedom from passion and disinterest in joy or grief. Stoicism was widely practiced by Roman soldiers, who surrendered their lives to the gods without flinching since all events were believed to be beyond one's control.

[Hedonism](https://plato.stanford.edu/entries/hedonism/) (<https://plato.stanford.edu/entries/hedonism/>), on the other hand, values pleasure as the *summum bonum* or highest good. In other words, pleasure is central to human motivation. Hedonistic theories typically operate at the individual level, and are considered deontological because they focus on the value of immediate actions, rather than their consequences. Critics argued that the concept of pleasure as a moral value had several flaws:

- Some things desired may not be good or worthy of being desired;

- Individuals differ in their perceptions of pleasure and pain (e.g., the pleasures of Adolf Hitler are not equal to those of Mother Teresa);
- Not all activities are pleasurable; and
- Some pains are pleasurable.

Several philosophers follow the Hedonistic school of thought, including Locke, Hobbes, Hume, and Bentham. However, their ethical theories don't necessarily adhere to the purist form of Hedonism described above. Rather, they sought to improve on Hedonism, as in the case of [Utilitarianism](https://www.iep.utm.edu/util-a-r/) (<https://www.iep.utm.edu/util-a-r/>).

Utilitarianism

As you can imagine, building a society based on hedonistic values according to each individual's preferences, with no regard for the consequences would be difficult, if not impossible. Philosophers, such as [Jeremy Bentham](https://www.iep.utm.edu/bentham/) (<https://www.iep.utm.edu/bentham/>) and [John Stewart Mills](https://www.iep.utm.edu/milljs/) (<https://www.iep.utm.edu/milljs/>) proposed a more useful version of hedonism - [Utilitarianism](https://plato.stanford.edu/entries/consequentialism/) (<https://plato.stanford.edu/entries/consequentialism/>).

Like hedonism, Utilitarianism values happiness as the primary good. However, Utilitarianism differs in that it is teleological. That is, an action has utility (is useful) and is right if it produces happiness (pleasure or satisfaction) as a consequence. Likewise, actions are wrong if they produce unhappiness (displeasure or dissatisfaction) as an outcome.

[Jeremy Bentham's](https://www.iep.utm.edu/bentham/) (<https://www.iep.utm.edu/bentham/>) (1748-1832) version of utilitarianism included his [hedonistic calculus](https://en.wikipedia.org/wiki/Felicific_calculus) (https://en.wikipedia.org/wiki/Felicific_calculus). He asserted that hedonism or happiness could be measured and quantified according to several variables: intensity, duration, certainty, propinquity (proximity), fecundity (fruitfulness), purity, and extent.

Bentham also argued that the benefits of society should be shared among the majority, rather than minority (i.e., monarchy and aristocrats). During his lifetime, English punishments were [draconian](https://www.vocabulary.com/dictionary/Draconian) (<https://www.vocabulary.com/dictionary/Draconian>). The accused were subject to [physical torture and cruel executions](https://www.digitalpanopticon.org/Punishments_1780-1925) (https://www.digitalpanopticon.org/Punishments_1780-1925). Bentham's adaptation of hedonism to the community level (rather than individual), resulted in social reforms in the English penal system. Bentham's work and utilitarianism continue to influence modern forms of [punishment](https://www.iep.utm.edu/punishme/#SH4a) (<https://www.iep.utm.edu/punishme/#SH4a>) today.

Utilitarians successfully argued that the benefits of society should be shared by the majority of citizens, rather than a small ruling class. However, the theory suffers several weaknesses:

- Decision-makers are forced to guess the outcomes of their choice;
- Predicting the outcome of a decision is not always possible;
- Harming a minority for the benefit of a majority does not create mutual relationships;
- It allows for the disproportionate punishment for general deterrence;
- It allows for the punishment of innocents;
- It fails to include individual rights; and
- It is impossible to quantify happiness (as it varies individually) or the number of recipients who benefit.

Just as Aristotle benefited from and improved upon the works of Socrates and Plato, John Rawls proposed a theory that addressed the weaknesses of utilitarianism.

Rawls' Theory of Justice

John Rawls (1921-2002) (<https://www.iep.utm.edu/rawls/>) refined utilitarianism in his *Theory of Justice* (1971). His theory of social justice is considered a social contract theory, which means morality is based on human enlightenment and civic awareness. Rawls' theory has emerged as the leading doctrine of political legitimacy, and is "one of the most prominent contributions to social justice in the twentieth century" (Souryal, 2015, p. 187).

Like Bentham and utilitarianism, Rawls studied the basic structures of society, and focused on maximizing society's benefits. He refined his predecessors' theories, however, by addressing the need to protect individuals' rights and reduce, if not eliminate, harms to minorities.

In his theory, Rawls distinguishes between the **two ethical virtues** of "justice" and "goodness." Within his theory of ethical behavior, the virtue of **goodness** is more important. However, goodness consists of actions for which we feel grateful, but do not have a right. Therefore, the virtue of goodness does not apply to government institutions.

The second virtue of "**justice**" does apply to government agencies, and is second only to the virtue of goodness. Justice is the fundamental morality required of public agencies and states (as well as individuals), and it applies to reciprocal situations wherein everyone must engage. Justice requires that governments oversee the equal and fair distribution of society's goods and benefits.

The societal goods for which government institutions [which includes criminal justice organizations] are responsible consist primarily of citizens' basic entitlements of rights and liberties, access to powers and opportunities, and distributions of incomes and wealth. Accordingly, Rawls rank ordered the **principles of justice** (https://en.wikipedia.org/wiki/A_Theory_of_Justice) required of institutions:

- **Greatest equal liberty (summum bonum):** (https://en.wikipedia.org/wiki/A_Theory_of_Justice)
- **Greatest equal opportunity; and** (https://en.wikipedia.org/wiki/A_Theory_of_Justice)
- **Difference principle** (https://en.wikipedia.org/wiki/A_Theory_of_Justice) (inequality is permitted, if everyone benefits)

In governing the distribution of society's goods and benefits (i.e., justice), Rawls asserts that citizens should expect **two virtues in a free society**. The first virtue is the **condition of equality**. The condition of equality requires social agreements that establish the criteria and procedures that govern the distribution of goods and benefits. An example of equal conditions is due process or **equality before the law** (https://en.wikipedia.org/wiki/Equality_before_the_law).

The second virtue of a government institution is **fairness**. Fairness consisted of reciprocal situations in which individuals have an option to decline the invitation, such as an opportunity to attend a university.

As part of the social contract, Rawls proposes that any agreements between citizens and their government should be made behind a **veil of ignorance** (https://en.wikipedia.org/wiki/Veil_of_ignorance) or from the **original position** (<https://plato.stanford.edu/entries/original-position/>). For agreements to be fair and just, the distribution of

society's goods and benefits should be made without prior knowledge of one's original position in life (e.g., race, sex, finances).

Like all theorists, Rawls has his critics. Although his theory improves on utilitarianism by providing for individual rights and an equitable (not necessarily equal) distribution of the benefits and burdens of society, there are those who do not favor inequality under any circumstances. Others point to the difficulty of choosing a course of action when rights conflict. Finally, there are those who do not support requiring those who are born into an advantageous position to assist those who are disadvantaged by factors beyond their control.

Conclusion

As noted above, serving the public as a criminal justice official typically includes reacting to societal inequities or failures of other [institutions](https://www.dictionary.com/browse/institution) (<https://www.dictionary.com/browse/institution>). When families, religious groups, public education, health care, corporations, etc., fail to control society informally, criminal justice is the social net that catches criminal deviants and must react formally to impose social control. And, when criminal justice institutions fail, they lose legitimacy and authority within their communities.

The evolution of ethical theories parallels the evolution of free societies. Just as utilitarianism ushered in a new age of punishment philosophies (i.e., deterrence, incapacitation, and rehabilitation) and penal reforms in the 19th century, Rawls' theory of justice is impacting post-modern societies of today. As morality continues to be re-defined by greater strides in civic awareness and human enlightenment, so too must we re-define our social contracts.

So, let's get started on your exploration into a social justice issue that interests you! :-)

References

- Souryal, S. (2015). *Ethics in criminal justice: In search of the truth*. New York: Routledge.
- Weisheit, R., & Morn, F. (2004). *Pursuing justice*. Belmont, CA: Thompson Wadsworth.