

Justice and Fairness

When Beatrice Norton was fourteen, she followed in her mother's footsteps and began working in the cotton mill. In 1968, after a career in the mill, she had to stop working because of her health. Years of exposure to cotton dust had resulted in a case of "brown lung", a chronic and sometimes fatal disease with symptoms similar to asthma and emphysema. In 1977, she testified at a congressional hearing, asking that the government require companies to provide disability compensation for victims of the disease similar to the compensation companies provided for other similar diseases.

I worked in the dust year after year ... I got sicker and sicker. In 1968 I suddenly had no job, no money, and I was too sick to ever work in my life again. State legislators have proven in two successive sessions that they are not going to do anything to help the brown lung victims, so now we come to you in Washington and ask for help. We've waited a long time, and many of us have died waiting. I don't want to die of injustice.

Another woman, Mrs. Vinnie Ellison, spoke bitterly about the way her husband had been treated when the illness caught up with him after twenty one years at a cotton mill:

In the early sixties he started having trouble keeping up his job because of his breathing. In 1963 his bossman told him that he had been a good worker, but wasn't worth a damn anymore and fired him. He had no pension and nothing to live on. My husband worked long and hard and lost his health because of the dust. It isn't fair that the mill threw him away like so much human garbage after he couldn't keep up his job because he was sick from the dust.

To Mrs. Norton and Mrs. Ellison, receiving compensation for the debilitating effects of brown lung similar to that given to other diseases was a simple matter of justice. In making their case, their arguments reflected a very long tradition in Western civilization. In fact, no idea in Western civilization has been more consistently linked to ethics and morality than the idea of justice. From the Republic, written by the ancient Greek philosopher Plato, to A Theory of Justice, written by the contemporary Harvard philosopher John Rawls, every major work on ethics has held that justice is part of the central core of morality.

Justice means giving each person what he or she deserves, or, in more traditional terms, giving each person his or her due. The Nortons and Ellisons of this world, for example, are asking for what they feel they deserve; when they are demanding that they be treated with justice and fairness. When people differ over what they believe should be given, or when decisions have to be made about how benefits and burdens should be distributed among a group of people, questions of justice or fairness inevitably arise. In fact, most ethicists today hold the view that there would be no point of talking about justice or fairness if it were not for the conflicts of interest that are created when goods and services are scarce and people differ over who should get what. When such conflicts arise in our society, we need principles of justice that we can all accept as reasonable and fair standards for determining what people deserve.

But saying that justice is giving each person what he or she deserves does not take us very

far. How do we determine what people deserve? What criteria and what principles should we use to determine what is due to this or that person?

Principles of Justice

The most fundamental principle of justice--one that has been widely accepted since it was first defined by Aristotle more than two thousand years ago--is the principle that "equals should be treated equally and unequals unequally." In its contemporary form, this principle is sometimes expressed as follows: "Individuals should be treated the same, unless they differ in ways that are relevant to the situation in which they are involved." For example, if Jack and Jill both do the same work, and there are no relevant differences between them or the work they are doing, then in justice they should be paid the same wages. And if Jack is paid more than Jill simply because he is a man, or because he is white, then we have an injustice--a form of discrimination--because race and sex are not relevant to normal work situations.

There are, however, many differences that we deem as justifiable criteria for treating people differently. For example, we think it is fair and just when a parent gives his own children more attention and care in his private affairs than he gives the children of others; we think it is fair when the person who is first in a line at a theater is given first choice of theater tickets; we think it is just when the government gives benefits to the needy that it does not provide to more affluent citizens; we think it is just when some who have done wrong are given punishments that are not meted out to others; and we think it is fair when those who exert more efforts or who make a greater contribution to a project receive more benefits from the project than others. These criteria--need, desert, contribution, and effort--we acknowledge as justifying differential treatment, then, are numerous.

On the other hand, there are also criteria that we believe are not justifiable grounds for giving people different treatment. In the world of work, for example, we generally hold that it is unjust to give individuals special treatment on the basis of age, sex, race, or their religious preferences. If the judge's nephew receives a suspended sentence for armed robbery when another offender goes to jail for the same crime, or the brother of the Director of Public Works gets the million dollar contract to install sprinklers on the municipal golf course despite lower bids from other contractors, we say that it's unfair. We also believe it isn't fair when a person is punished for something over which he or she had no control, or isn't compensated for a harm he or she suffered. And the people involved in the "brown lung hearings" felt that it wasn't fair that some diseases were provided with disability compensation, while other similar diseases weren't.

Different Kinds of Justice

There are different kinds of justice. Social justice or distributive justice refers to the extent to which society's institutions ensure that benefits and burdens are distributed among society's members in ways that are fair and just. When the institutions of a society distribute benefits or burdens in unjust ways, there is a strong presumption that those institutions should be changed. For example, the American institution of slavery in the pre-civil war South was condemned as

unjust because it was a glaring case of treating people differently on the basis of race; and the same is often said of the apartheid system of South Africa today which continues to distribute political and economic benefits on the basis of race.

A second important kind of justice is retributive or corrective justice. Retributive justice refers to the extent to which punishments are fair and just. In general, punishments are held to be just to the extent that they take into account relevant criteria such as the seriousness of the crime and the intent of the criminal, and discount irrelevant criteria such as race. It would be barbarously unjust, for example, to chop off a person's hand for stealing a dime, or to impose the death penalty on a person who by accident and without negligence injured another party. Studies have frequently shown that when blacks murder whites, they are much more likely to receive death sentences than when whites murder whites or blacks murder blacks. These studies suggest that injustice still exists in the criminal justice system in the United States.

Yet a third important kind of justice is compensatory justice. Compensatory justice refers to the extent to which people are fairly compensated for their injuries by those who have injured them; just compensation is proportional to the loss inflicted on a person. This is precisely the kind of justice that was at stake in the brown lung hearings. Those who testified at the hearings claimed that the owners of the cotton mills where workers had been injured should compensate the workers whose health had been ruined by conditions at the mills.

The foundations of justice can be traced to the notions of social stability, interdependence, and equal dignity. As the ethicist John Rawls has pointed out, the stability of a society--or any group, for that matter--depends upon the extent to which the members of that society feel that they are being treated justly. When some of society's members come to feel that they are subject to unequal treatment, the foundations have been laid for social unrest, disturbances, and strife. The members of a community, Rawls holds, depend on each other, and they will retain their social unity only to the extent that their institutions are just. Moreover, as the philosopher Immanuel Kant and others have pointed out, human beings are all equal in this respect: they all have the same dignity, and in virtue of this dignity they deserve to be treated as equals. Whenever individuals are treated unequally on the basis of characteristics that are arbitrary and irrelevant, their fundamental human dignity is violated.

Justice, then, is a central part of ethics and should be given due consideration in our moral lives. In evaluating any moral decision, we must ask whether our actions treat all persons equally. If not, we must determine whether the difference in treatment is justified: are the criteria we are using relevant to the situation at hand? But justice is not the only principle to consider in making ethical decisions. Sometimes principles of justice may need to be overridden in favor of other kinds of moral claims such as rights or society's welfare. Nevertheless, justice is an expression of our mutual recognition of each other's basic dignity, and an acknowledgement that if we are to live together in an interdependent community we must treat each other as equals.