

JUSTICE LOSES ITS CHARACTER IF IT BECOMES REVENGE

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Introduction

“Justice can ever be or ought to be instant, and justice must never ever take the form of revenge. I believe justice loses its character of justice if it becomes revenge.” Akin proposition said by CJI of India after gunning down of the four accused in Hyderabad gang-rape incident. Broadly speaking, justice means the fulfilment of the legitimate expectation of the individual under laws and to assure him he benefits promise therein. The values of **liberty, equality and fraternity** are important in any system of law and justice. Consequently, this article will discuss about the meaning of justice, its difference with the concept of revenge and some cases relevant.

Meaning

The term justice has been derived from latin word ‘Jungere’ which means to blind or ties together, thus in this way it can be stated as justice is the key ailment which ties the individuals in the society together and harmonizes a balance between them and enhances human relation. Philosophers like Plato¹ and Aristotle² regard justice as a supreme virtue, the source of all others and encompassing within itself

¹ Plato, *Five Dialogues*, trans. G. M. A. Grube (called “*Dialogues*”). Indianapolis: Hackett, 1981

² Aristotle, *Nicomachean Ethics*, trans. Terence Irwin, Second Edition (called “*Nicomachean*”). Indianapolis: Hackett, 1999.

the whole of morality. For Kant³ and Rawls⁴ justice is a very important aspect of human existence, the virtue of society. Hume,⁵ Marx and Engels denigrate the concept of justice; and for then it is unnecessary if not entirely irrelevant. Hobbes's conception of justice is reductionistic, reducing it to conventional agreements that seem skewed to sacrifice too much liberty on the altar of law and order.⁶

Origin of Justice

Ever since the birth of the society, justice has been one of the most important quests of human endeavor. In ancient India, the term 'law' and 'justice' had invariably been associated with the term 'Dharma'⁷, which passed through several transactions of meaning, in its most prominent significance. It stood for the privileges, duties, obligations of man and his standard of conduct as a member of Aryan community and so on.⁸ The Greek philosophers whose theories of justice had a genetic role in changing western jurisprudence and notions of justice said, "Like many other sciences the science of law has its roots in Greek philosophical theories of justice and social order. The Greek word 'nomos' which we translate as 'law' was used to denote justice ethical custom, commercial custom, religion rites, law in general, a rule of law, and social control as a whole."⁹

³ Immanuel Kant, *Ethical Philosophy*, trans. James W. Ellington, Second Edition (called "*Ethical*"). Indianapolis: Hackett, 1994

⁴ John Rawls, *A Theory of Justice* (called "*Theory*"). Cambridge, MA: Harvard University Press, 1971.

⁵ David Hume, *An Enquiry concerning the Principles of Morals*, ed. J. B. Schneewind (called "*Enquiry*"). Indianapolis: Hackett, 1983.

⁶ Thomas Hobbes, *The Elements of Law*, ed. J. C. A. Gaskin (called "*Elements*"). Oxford: Oxford University Press, 1994.

⁷ The term 'Dharma' is a Sanskrit word and in most cases the meaning of Dharma is religious ordinances or rites. P.V.Kane, , *History of Dharma-Sastra*

⁸ S.D.Sharma, *Administration of Justice in Ancient India* (1988), p. 35.

⁹ Iyer, V.R.Krishna, *Some Half-Hidden Aspects of Indian Social Justice*, (1979), p. 10.

Difference between Justice and Revenge

It is Important to differentiate between these two factors .It is convenient to give forward the claim that justice is fair and revenge is not. But if we look up the word “just revenge” suggest, revenge depends on its underlying state, motivations, and its execution—its either just or unjust, fair or outrageously out of proportion to the wrong originally done. All the same, the well-known phrase “*miscarriage of justice*¹⁰” warns us to be careful about distinguishing between concepts that, finally, must be understood as both relative and subjective.

Now, we can agree on the part that revenge never offers closure, that means, it will always be the option in revenge that it may have been done with more aggression and more rigourous manner.

Can revenge be ever enough?

With Justice there is closure¹¹. **People** can rest safe with the feeling that everyone, especially the system and society, agrees with you that the person did something wrong to you and deserved punishment. That leads us to the next issue.

Revenge will always be **one-sided**. It’s all about what you feel about it and what you want exactly. You are the center of the focus. In revenge, you are the prosecutor, jury, judge, and executioner.

¹⁰ Miscarriage of justice-a failure of a court or judicial system to attain the ends of justice, especially one which results in the conviction of an innocent person.

¹¹ Saco,Larisa,BA. Closure and Justice: A Qualitative Study of Perspectives From Homicide Survivorship Experts, <https://connect.springerpub.com/content/sgrvv/33/5/830>

The wrongdoer has no opportunity to offer reasons for the wrong done to you. In justice, the concerned people have a chance express their opinions about it and their point of view or lack thereof. Justice looks at several sides, because there should always be an option that states that what is wrong for you may not be wrong though the others point of view.

Now let's explain this through an example-

If a neighbor vandalizes your car, an act of revenge would be you going over to your neighbor's house and vandalizing their car. The next act of revenge would be your neighbor going back to your house and vandalizing another car, etc. This would not stop until the justice system gets involved and would put both neighbors in prison whereby the vandalizing would stop.

Now lets say it is easy for people to decide that what the difference between Justice and Revenge.

Mahatama Gandhi once quoted, "An eye for an eye will make the world go blind¹²", it was supposed to differentiate between these two factors only. Other famous quotes like, "Fight fire with fire and you will get burned," etc. are referring to revenge only.

Cases

1. Unnao rape case

¹² An eye for an eye leaves the whole world blind” is frequently attributed to M. K. Gandhi. The Gandhi Institute for Nonviolence states that the Gandhi family believes it is an authentic Gandhi quotation, but no example of its use by the Indian leader has ever been discovered.

BJP leader Kuldeep Singh Sengar¹³ has been found guilty of rape and intimidation of minor in the case of kidnapping and rape of a woman in Unnao in 2017. In this case, an eminent BJP leader who is having a significant position in and around the area was being alleged for rape. After the filing of the chargesheet and when the case started in the court. Family of the victim were being tortured by the mob and by the supporters of the alleged rapist, “it was revenge”. When the family of the victim were on their way to the court, they met with an accident in with a family member and the victim’s advocate died. People alleged the MLA for the accident, probe never revealed this allegation, but somehow, “it was revenge”.

So what should be done to the person who is of this character, who kidnapped and raped a minor, and then tried to kill the family of the victim? Should he be killed? For a layman, for such person there should be death penalty or if we look into the whatsapp university and different social media platforms, there are many suggestions. But will it be considered as “Just”. For some people Yes, or maybe. But this is not how justice works. That’s why justice and revenge is often confused. Justice is the opinion or decision given with newtral mind and without bias. If there is even a slight bias is providing justice, it wont be considered as one, it is revenge.

Therefore, the BJP MLA was given life-imprisonment through following due process of law

2. Nirbhaya rape case

Probably the most horrifying and discussed rape case of all time, is what happened in Nirbhaya case¹⁴ in Delhi. A young girl in Delhi was raped by 3 men

¹³ Kuldeep Singh Sengar is an MLA, and belonged to Bhartiya Janta Party from Bangarmau, Uttar Pradesh, India

¹⁴ 2012 Delhi Gangrape case, https://en.wikipedia.org/wiki/2012_Delhi_gang_rape

and 1 minor. She was brutally raped, her friend was brutally beaten, they inserted a rod inside her private parts and took out the internal parts which was later found in the bus itself during investigation. It was the most brutal case that Delhi encountered.

Four people were caught in which three were given life imprisonment, and one of them was tried in juvenile court as he was a minor. This person who was the minor was alleged to insert the rod inside the girl.

People of such brutal mind and the person who did such act, must he be given any kind of relief? Shouldn't they be hanged immediately looking upto the brutality they showed?

Yes, majority of people will agree on it. But if this would have been done, then it would be clear decision which seeks revenge. A due process of law must be followed, and all the decisions made must be under the ambit of law and justice.

Justice shouldn't be just said, it should be clearly visible. Therefore, the decisions made in this case were given through following due process of law. Justice is for everyone. Our constitution provides every citizen a right to seek justice.¹⁵

Like it is said, law is blind, therefore a judge can never decide upon a case though a feeling of revenge, because the judge needs to provide justice not just to one, but to everyone. BJP leader Kuldeep Singh Sengar has been found guilty of rape and intimidation of minor in the case of kidnapping and rape of a woman in Unnao in 2017.

¹⁵ The Indian Constitution guarantees justice to all, All Indian citizens are guaranteed equal right to life and personal liberty. ... The expression "Access to justice" focuses on the following two basic purposes of the legal system: The system must provide access to all.

Conclusion

Chief Justice of India S A Bobde said justice can never be prompt and loses its character when it becomes revenge. At the same time, he admitted that the recent events in the country have sparked off an old debate with new vigor, where there is no doubt that the criminal justice system must reconsider its position and attitude towards the time it takes to dispose of a case. I believe justice loses its character of justice if it becomes revenge,". The CJI, however, admitted the country's judicial system needed a correction. "There is no doubt that criminal justice system must reconsider its position and attitude towards laxity and the eventual time it takes to dispose of criminal matters," he said. "There is a need in the judiciary to invoke self-correcting measures but whether or not they should be publicized is a matter of debate."

The Hyderabad event¹⁶ had flickered demands of swift punishment to rape convicts. The newscast of the 'encounter' killing led to festivities in some quarters and apprehension in others. The judiciary obligation is to remain unswerving to making justice accessible to individuals by solidifying the prevailing boulevards¹⁷ and progressing fresher resources to attain a reasonable, rapid and adequate settlement of arguments. We have to plan approaches aimed at not only fast-moving up lawsuit but all composed precluding it. There are laws which provide for pre-litigation mediation, that there was a need to deliberate obligatory pre-litigation mediation.

Therefore, as mentioned earlier, there is a thin line between the concept of Justice and Revenge, and that should be kept in mind. Otherwise, the whole concept of proving justice, rule of law, and the society which rests on the Preamble and Constitution of India loses its meaning. Therefore, it is rightly said, that Justice loses its character when it becomes revenge.

¹⁶ 2019 Hyderabad Rape Case, https://en.wikipedia.org/wiki/2019_Hyderabad_gang_rape

¹⁷ Boulevards means a wide street in a town or city, typically one lined with trees.