

Satisfactory Justice – what does it mean?

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The young journalist, 'Sue', sighs to her editor for the second time in a month ... while he smiles back.

'Another hard town hall with the intellectuals, for you to précis?' he asks.

'Yes! My degree is in journalism – not philosophy or the subtleties of jurisprudence.'

The editor laughs at her discomfort. 'Exactly. Your job is to summarise what you heard and translate it into language that our readers can understand. That's the skill of the journalist.'

'But that assumes that I understood what was said ... in the first place.'

'You'll be fine. I look forward to your draft. Remember ... concise, interesting. Clarify the difficulty. Your last précis was well received.'

Précis draft 1 by Sue Donym

Satisfactory Justice – what does it mean?

'**What do we mean by justice?**' was the first question asked of the second town hall *Question and Answer* meeting last night ... to be answered by a panel of public intellectuals including philosophy and legal experts.

I am none of those ... but I'll try to summarise the gist of the conversations for you.

Justice is interpreted through the law.

The law might be best understood by its place on a continuum ... from the easy end of limited consequence (such as for minor traffic offences) through to the hard end of criminal and international law (such as for mass murder, genocide or crimes against humanity).

At the **easy end of the continuum**, the consequences for misbehaviour could range from a reprimand to loss of privileges ... and would be dealt with in children's courts, magistrates' courts, hearings, tribunals and the like.

More serious breaches might be considered as civil charges for such matters as defamation, property disputes ... infringements on the rights of others.

Further along the continuum, we reach **breaches of criminal law** such as theft, assault, grievous bodily harm ...

Towards **the hard end**, we have murders, serious organised crime, terrorism ... and the **international courts** deal with national level crimes against humanity and war crimes.

So, drawing down from that wide range of justice considerations, judges in courts must decide suitable penalties within the appropriate law to fit the evidence and the crime.

But are the penalties satisfactory? That is the question.

At all levels of courts, judges have to provide written reasons for the penalties they deliver ... because, in law, defendants have the right to appeal to a higher court.

The written reasons refer to what is allowable under the particular law, precedents (past judgements on similar convictions) and logic (joining evidence into a reasoned conclusion around level of guilt).

The reasoning must show how the evidence met a **standard of proof** on the **balance of probabilities** in civil courts – or in criminal cases, **beyond all reasonable doubt**.

**So, will the aggrieved parties be satisfied
that justice has been meted out?**

The law stipulates what range of penalties are available to the judge to fit particular crimes – eg life in prison, or the number of years in custody, the number of years before parole can be considered, the level of fines or reimbursement or costs.

Both the accused and the aggrieved have the right to appeal the judge's written reasoning in a higher court.

The town hall panellists gave a number of examples of instances where judgements might not meet the standard of **satisfactory justice** in victims' eyes.

For example, if a person commits murder then the penalty could be life imprisonment or even the death penalty, in some jurisdictions.

If a person commits multiple murders (as in thousands), *what penalty can fit that crime?* He/she can only be executed or banished once.

If a person has been mentally deranged or indoctrinated to the extent of being robotic (out of normal cognitive control), yet has committed serious crimes against others, *what penalty would fit the crime?* Often it means being detained in a secure mental facility *for as long as is necessary*.

If a child has committed crimes while not fully understanding the damage being caused, *is rehabilitation a better course of action* for society and the child? Or is the judgement of adult crime, adult time the preferred option?

A person of public standing has been accused of a crime that he didn't commit. The judgement was in his favour yet the defamation of his character could be shown to have had a lasting deleterious effect on his life. *What compensation could help to redress the damage done?*

The accuser could be punished for defamation without sustainable evidence and be liable for the costs of restoring the reputation and health of the aggrieved party. There could be a financial compensation for the innocent party. There could be a public exoneration to reduce the damaging effect. There could be medical support to address the trauma caused.

Is that satisfactory justice? What happens if the accuser has no resources to compensate the victim?

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Finally, in cases of national crimes against humanity or in times of war, what approaches to justice can be used?

After World War 2, international war crimes trials dealt with the evidence and issued penalties – in many cases, death penalties. ***Was that a satisfactory resolution?***

In South Africa after apartheid, a Truth and Reconciliation Commission was established to enable perpetrators to admit guilt, hear impact statements from the aggrieved and then move forward as better people into a reformed society, without hindrance by the wrongs of the past. ***Has that approach overcome generational grievances?***

The messages from the town hall panel were that **the law is not perfect** and needs to be regularly adjusted to reflect changes in society. Judges are necessary to maintain standards of evidence and to make valid decisions while balancing the degree of doubt. The appeal process is essential as a check and balance against incorrect or unjustified judgements.

The complexities of dealing with antisocial or criminal behaviour are vast – from the range and seriousness of issues dealt with at all levels on the legal continuum ... to the consequences of penalties ... to the emotions and genuine pain of the aggrieved, **full satisfaction with justice will always be difficult for people who are hurting badly.**

Perhaps, the best measures of satisfaction might be that justice is seen to be done in a timely manner, that the punishments are appropriate in terms of the law and an understanding that justice in the 21st century is rarely a simple case of *an eye for an eye*.

Satisfactory justice will never satisfy everyone but it needs to be consistent, effective, within the limitation of the society in which we live.

What do you think?

Are you satisfied?

‘What do **you** think?’ Sue asks of her editor. ‘Is it clear enough for the readership? There are libraries on this, worldwide. It is not easy to précis a town hall discussion in only a few words.’

Her editor nods while reading the draft ... and then nods again. ‘The importance is that it is short enough to be read and considered. It might inspire readers to search for the detail.’

‘Good,’ she responds. ‘I hope we get lots of responses, like last time. That helps make the effort seem worthwhile.’

‘I suspect our readers have been waiting to see what you write next. These town hall discussions are useful for generating interest. The written word is still active ... despite the tsunami of technology.’

Sue grins at the praise while her editor says, ‘I like the way you finish with your own questions to the readers. We’ll print it. These are important ideas that need to be aired.’

‘Like forbidden linen on a washing line!’ she replies with a laugh,