**Does due course of law always lead to justice?**

[Saad Masood](https://dailytimes.com.pk/writer/saad-masood/%22%20%5Co%20%22More%20Articles%20by%20Saad%20Masood)

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Gloria Steinem – an American journalist and socio-political activist – says “law and justice are not always the same. When they aren’t, destroying the law may be the first step toward changing it”. Witness any court case and this will become obvious – the losing party almost always cries injustice! Scores of lawyers and their clients can be seen saying that while they respect the court’s decision, they don’t agree with the verdict, i.e. the justice meted out. This notion is consistent across many domains – political, governmental, social, corporate, and so on and so forth. One reason is obvious, those in the wrong will always claim bias. But occasionally even those in the right, maintain that justice wasn’t done. Might there be another question on offer? Yes, does due course of law always lead to justice? Not every time. Consider the following hypothesis that separates law and justice.

A quick glance at the root of both words suggests that they were always meant to denote different concepts. On one hand, the word law – with Germanic and Old Norse beginnings – means ‘something laid down or fixed’. That is where the term to ‘lay down the law’ comes into being. Basically, law is a defined process with a definitive outcome. On the other hand, the word justice has Latin and French origins and is meant to denote ‘righteousness and equity’. Fundamentally, justice is a variable position with abstract notion of morality. There within lies the rub, the law maybe same for everyone but justice is not!

Justice cannot be definite simply because two people’s expectation of justice from the same legal proceedings can be different. For example, at the sentencing of a convicted murderer, one person’s view of justice may reflect in a death sentence while the other person’s idea of righteousness may lean towards life imprisonment. Where does this variation come from? From the doctrine of the person in question! Recall that previous op-eds in this series have established doctrine as being a set of authoritative beliefs that have accrued over a lifetime of the individual. Simply put – any individual is the sum total of his or her beliefs at that point of inspection. And in turn, that is what guides his or her definition of justice. But this is only justice as perceived by individuals. There is a second idea of justice, that which is as administered by law.

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Justice administered by law is bound by written decrees. It does not have the liberty to opened up to examination and interpretation. After reviewing all the facts in the case, if the sentencing of a convicted murderer results in the death penalty then that is the achievement of justice as prescribed by law. However, in order to limit the deviation between justice administered by law and justice interpreted by individuals or society, justice written in law must abide by three significant tenets. One, accessibility – the rule of justice is for all forms of citizenry and available to all. It can’t be a rule that is based on and limited to individuals. Two, equity – this is perhaps most crucial and maintains that the rule of justice that is available to everyone should also be administered evenly to everyone. So for example, that the rich and poor fall under the same might of the pen. Three, certainty – justice ought to be proportional and the same for everyone if the material conditions remain the same. This uniformity of justice can only happen when the dispenser either knows what has been done in similar cases or has the means to form a judgement based on the available material with a view to administer justice for conditions that haven’t been seen before.

Cast an eye over recent history. Are these three tenets generally met when the law takes its course? It is a big, fat NO in the majority of cases! No wonder that people perceive justice differently. And it is a double whammy! First, justice administered by law ignores these principles which makes the same justice dubious in the eyes of the population. Second, personal doctrines have already ensured that different people expect different levels of justice when legal proceedings complete. Therefore – in the eyes of the masses there will always be an expectation that although the law can take its course but the justice it dispenses will not be equitable! This is true not only for justice expected by society but also for justice administered by law!

While those in the legal fraternity can always shed more light into the delineation between law and justice, the crux of the matter is this: the majority perception is that law doesn’t always equate justice! And that speaks as much as to the failure of the legal function as it does to other deficiencies. This doesn’t meant that new laws need to be enacted but it forces the acceptance of doctrinal variation in people and the fact that the three tenets should always pass their relevant litmus test. Only then justice would seemed to be done! Or else it would be as Cicero – a Roman statesman and lawyer – said, “the more laws, the less justice”!