

LEGAL PRINCIPLES

The legal system has an important part to play in the protection and maintenance of a Just Society.

As it operates now the legal system is far too manipulated by money and influenced by class biases.

The masses of people find themselves outside of its operation. They feel alienated from it and therefore when the individual is called upon to play a role such as a juror, he or she sees it as a burden, a humbug. An accused person sees it as an instrument of coercion that he must fight against.

The only concern in a Court of Law generally is the question of whether a person brought before the court is guilty or not guilty of committing a particular act.

The method of correction is in truth and fact nothing but punishment.

The attitude which permeates the system was reflected in the treatment of the deceased calypso king, Sniper, in the very year in which he won the crown. As a poor man he had taken a chance, before his calypso victory, to draw a paltry fortnight's pay of a co-worker who was absent from the job at Lockjoint (a firm of contractor, involved in setting down a sewerage during the 60's.)

He was sentenced to two years imprisonment but won the calypso crown while out on appeal. This was his very first break in life and an opportunity to redeem himself. Even though he repaid the money, his employer accepted him back on the job and almost everyone in the society wanted to see him given a chance, the court made him serve his time in prison, thus killing his career.

This is not surprising. Justice entails far more than a legal system. In fact, in a society based on exploitation, no legal system can function in a manner to ensure justice, no matter how sound its rules and procedures may seem theoretically. What we have outlined in principle is a System that is Just. Our principles for Justice in the legal system can only have meaning within such a framework.

We state as the basic principles of the legal system the following.

THE LEGAL SYSTEM MUST MAINTAIN THE WHOLESOMENESS OF THE SOCIETY.

An important part of this responsibility is the protection of the society. It is vital though that this protection be seen as both physical and moral. Obviously the law must operate to effectively deter or counter harmful actions directed against individuals or the collective, since either way it is the happiness of the society that is undermined.

But this society has been conditioned to regard the functions of Justice and protection of the society too much in the physical terms – punishment, the society striking back at the ‘criminal’.

This one-sided concept leads to an increasing degeneration of police work, more and more into bullying. It leads to judges and magistrates expressing contempt for offenders as they impose harsh sentences. It encourages in prison officers the view that they are dealing with the scum of the earth.

In the final analysis, the absence of the moral dimension does not lead to greater protection of the society, because the man defined as a ‘criminal’ sees the system as evil as it considers him. He therefore has no moral constraints about breaking the law.

So the moral responsibility of the legal system to the society as a whole must be recognized. Moral in the sense that official institutions do not act in a way to corrode the values of the society by moving against an individual with an ethic of revenge. Justice must be handled in a manner that no matter how much firmness may be necessary, the sense of Justice in the people is enhanced.

JUSTICE MUST BE BASED ON A CONCEPT OF THE IMPORTANCE AND WORTH OF EVERY INDIVIDUAL.

The challenge to the legal system is to recognize the humanity of the offender, whether he has to be sent to prison or not. For this to be, judgement must always take into consideration, not only the position of guilty or not. Judgement must be weighed by the circumstances of the act and the circumstances of the individual. The relevant social and psychological factors must be given serious consideration.

The legal system must see its role as restoring the offender’s own sense of Justice and dignity, his own self-worth, a positive concept of his relation to society and his ability to fit properly into the society. This concept must guide operations of all aspects of the system.

The individual who is wronged has also to be considered as more than a piece of evidence.

Proper consideration must be given to the loss that the person has suffered. This does not only mean material compensation. For example, in a case of rape, there is great psychological harm. There must be programs to help the individual to overcome the effects of the experience.

JUSTICE MUST BE BASED ON TRUTH.

One of the plagues of the legal system now is that rules and procedures designed to protect the rights of the accused are so abused that getting a good lawyer to take advantage of the 'technicalities' is more important than being innocent.

In order for Truth to be of prime importance the society and the legal profession must have a strong ethical base. Another critical factor for a system based on Truth is the participation of the people.

PEOPLE'S PARTICIPATION MUST BE ENTRENCHED IN THE LEGAL SYSTEM.

When people feel involved in the system and closer identify with its purpose, the demand for truth will be much greater.

Therefore the court system has to move beyond the narrow confines of the present to develop participatory institutions where people can have a say not just as witnesses within the narrow rules of evidence, but on the more total social situation relevant to the matter itself, as well as about the individuals involved, since this is important to judgement.

This system would bring human factors into more prominence in dealing with matters.

In a society functioning on the basis of people's institutions in all areas of life, a community would know whom they can best rely on to play important roles in this context.