SINCE PEOPLE CANNOT AGREE

ON THE MEANING OF JUSTICE,

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TO BE AN IMPORTANT GOAL

FOR SOCIAL POLICY?

Essay for the Seminar in Social Justice

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Introduction

To answer the question very shortly, I would say: yes, the intention to define the meaning of justice should be an important goal for social policy, because the exchange about justice itself will make social policy more just. Moreover, I would also argue that as long as there is some disagreement, it can assure us that the exchange among the different concepts of justice will serve as a guarantee for its beneficial role. In other words, if once someone would predict that from tomorrow we would know what justice means, that would mean the end of our possibilities to make social policy more just, since we would probably not have more discussion about the concept of justice later on. Consequently, I think that even if someone might find the "almost perfect" definition of justice, the fact it closes down the discussions and the dynamic consideration of the relevant issues would have more destructive effect, than having several "imperfect" – and sometimes competing – concepts in the same time, which might result in general revaluation, rethinking, referring back to the underlying principles by the citizens. To illustrate the current argument, let me use the following metaphor: the discussion about the concept of justice can be considered as a dog-running contest, in which 'justice' is the artificial hare to be never reached. However, the process of running serves as the key element and motivation for us to try to observe or even participate in this event.

In the following, I intend to detail my above stated argument by firstly, trying to define social policy and secondly, giving reasons why it is expected from any social policy system to aim to be as just as possible. It is followed by a short indication of the diverse approaches of philosophies, which have intended to shed a light on the complex issue of what justice might mean. Finally, I try to draw a more detailed picture about the reasons behind my argument concerning the necessity of maintaining the never-ending discussion about the concept of justice.

As a final remark of my introduction, let me point out that in this essay I do not intend to discuss the different theories on justice or social justice, since the topic of this study is the *role of disagreement* in social policy, and needless to say, the structured elaboration

of the main philosophies on justice should be the issue of another study. Furthermore, I do not intend to detail what I am thinking of the concept of justice. In order to assure the reader that this short essay will focus on answering the starting question, I have to face with the interesting challenge of how to talk about the role of justice in social policy without having the possibility to draw a picture about my ideas of a "just society". Additionally, it has to be noted that if I discussed *my* model of justice, meanwhile I would nullify the starting argument, which says that it is not the "successfully accomplished mission" (i.e. constructing the perfect model of justice) but the *exchange* itself that has the main beneficial role in making social policy more just.

Definitions

Concerning the definitions of *social policy*, I would like to mention three main approaches. The first one intends to pragmatically list all the institutions belonging to it (pragmatic approach), i.e. refer to those means by which the state and additional sectors attempt to satisfy citizens' social needs. The second highlights the universal functions that social policy has to serve in a society in order to maintain the status quo of an integrative society and the ways in which it responds to the dysfunctional mechanisms of the society (functional definition). The third approach, defined as "structural – dynamic approach" (Ferge, 1990) stresses the dynamic process between the state and the citizens changing in time and in place. It does not only discuss the particular needs of particular citizens in a given time and space, but also gives a picture about who the stake-holders are, how their functions, competencies, decision-making processes can be described and provides a list of social needs that are supposed to be included on the "actual" social policy agenda.

While I intend to follow the third definition because of its sensitivity to the dynamically changing factors, let me extend it with my assumptions about what the main functions of social policy are. Accordingly, societies have always had and will have conflicts because of the gaps between the citizens' needs on one hand and the limited number of available goods resulted by the limited resources on the other hand. I would consider every attempt in a society as part of social policy, which aims to reduce these conflicts with an institutional response.

Our next question is why social policy should be just. From the above mentioned definitions it can be clearly seen that social policy is evolved from tensions, conflicts,

unsatisfied needs, therefore we can assume that behind each system and decision different values, principles, goals with different priorities are competing. Hence, in order to construct a consistent social policy model it is advisable to identify these underlying elements before. By thinking over what could be our overall motivation and main aspect in arranging these different conceptions into a consistent system (the hare in the dog-contest), we might assume that the *wish to construct* as *just social policy* system as possible can serve as the hare in our contest.

Regarding *the concept of justice*, as mentioned earlier, this essay does not intend to detail the different justice ideals. However, it should be noted that the difficulty of defining justice is evolved not only from the lack of agreement concerning its *content* (i.e. how does/should a just system look like?) but the lack of agreement on *what we should examine* in the search for the definition.

Concerning the latter issue, among other aspects we can distinguish between legal and social; individual and collective; procedural and substantive; private and public justice. Normative theories on justice do not only differ in the *content* they identify behind each above listed concepts, but the way they *prioritise* them also has an impact on their interpretation of justice. In other words, as an example, on one hand we can discuss what substantial justice or procedural justice might mean in the different philosophical approaches, on the other hand we also have to deal with the issue of how substantial and procedural justice relate to each other in the general discussion of just, i.e. do they have the same significance or one of them is more important than the other on the route towards defining justice.

Advocacy for the talk

The most difficult challenge behind answering the question of this essay is to study the *role of discussions* about justice without having the intention to *define* justice itself. Using the main logic of the so-called post-modern approach, my main argument is that instead of expecting from any thinkers, institutions or professions to define *for* us what justice means, we should let the different discourses "play", pay attention to local narratives instead of the grand universal narratives (Lyotard, 1984), should use the communicative competence of the human species and search for the meaning of justice *by* the discourse itself. But why do I stress it?

By reading the works of some of the most influential scholars such as Rawls, Hayek, Walzer, Miller or Lind & Tyler we can gain a broad picture of consistent theories arguing for contractarian, liberal, communitarian – pluralist or procedural approaches of the concept of justice. As the above mentioned philosophers' theories also illustrate, for thousand of years there has been constant disagreement on what justice means and hopefully it will stay the same in the following centuries as well.

However, thinkers have been common in raising the same issues while exploring their justice models. They have all tried to identify the underlying principles, goals, goods and rights and the necessary rules and institutions that are responsible for realising these "ingredients" to a maximum extent in a just society.

I argue that the never-ending search for the meaning of these concepts, the exchange of the different views about them has the potential to continuously keep them in mind while constructing legal and institutional systems. We might assume that in order to establish a just social policy system we only have to agree what justice means and our definition will show the way towards the "adequate" system to be constructed. Therefore, the wish to *establish* a just social policy system does not explain why we need the discourses, the disagreements.

However, if we can agree on that assumption that justice will never be perfectly realised in any society, we can conclude that every system – even the "most just" structure – will result in some unintended dysfunctional mechanisms[1] and conflicts of interest[2]. And these are the points where our "almost-perfect justice theory" has its limits and we need to step back looking at the competing underlying principles. These malfunctions of our current system are the guarantees to always rethink, revalue, reconsider and sometimes re-establish our institutions. Meanwhile, these processes are essentials for maintaining the legitimacy of the social and political institutions.

Furthermore, providing space for discourses about different justice concepts has a very pragmatic impact on policy-making as well. As an example, let me mention a current debate in the field of legal justice about the possible integration of the traditional criminal justice and restorative justice systems. One of the main issues of involved theoreticians is whether the recently evolved restorative justice concept is leading to a "paradigm-shift" in

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[1] as an example a contra-selective effect of a school system
[2] For example, if we have resources for only one medical operation and a young child and an old lady both need the surgery to stay alive, for whom should we spend our resources?

the justice system, or not. By explaining the theory of Thomas Kuhn about paradigm shift (Kuhn, 1970) in more details, Groenhuijsen (2004) argues that, if we consider a paradigm shift as a process, which "involves a complete and total overthrow of concept, values, objectives and principles within an academic principles (2004:66)",

> "Restorative justice is a great idea, a convincing philosophy and a wonderful inspiration. But it is not a new paradigm. The idea is being used – as it ought to be – to reform and improve the criminal justice system step by step. (2004:78)"

Therefore the two systems – the traditional criminal justice and the restorative justice system – have to be able to live together. Instead of trying to *choose* one of the competing concepts and convincing others that the chosen one is more just than the other one, we need to work on making their *integration* as just as possible. Consequently, in order to see in which points can these different concepts be combined and how; i.e. in which cases they can be used complimentary, alternatively, or when they should replace each other, we constantly need to remind us about the main principles that underlie our basic expectations towards a just criminal system.

Thus, this is the main contribution of the mentioned debate: without the expectation of reaching a complete agreement, the process of the debate itself might have the potential to make the justice system more just by, on one hand, highlighting and reminding policy-makers and other concerned agents about the underlying principles that should be represented in the system, and on the other hand by working on schemes for adequately and effectively integrating the "competing" approaches. Accordingly, similarly to the intention of making the *legal* justice system as just as possible, stake holders and decision-makers of the *social policy* system do focus or ought to focus on the ways they could make the applied social policies as just as possible.

Conclusion

To conclude, I would like to stress again that in my opinion the process of debate, the discourses about the possible meanings of justice might be highly beneficial in our attempt to make social policy more just. Furthermore, the awareness of the fact that there will be no agreement on this issue can assure us about the constructive impact of the constant discussions.

And as a final remark, let me ask back the question of the title in a slightly different way: if we argued that social policy does not have to keep on discussing the meaning of justice and should not try to get closer to agreements, would not this approach represent itself a concept of justice?

I think it would. It would explicitly lead to two possible assumptions: 1) either our system that gives institutional responses to social conflicts should not be bothered about the reasons and structure of those conflicts, or 2) it would mean that currently we have a clear view about the most important priorities and goals of the social policy system and their rethinking, re-legitimisation as well as their critical evaluation is not necessarily in order to make it more just.

I am convinced that this approach is itself a conception of "justice" as well. Nevertheless, I do not think that it would be able to contribute to a more just social policy and a more just society as a whole. Conversely, we should keep on arguing as a kind of assurance indicating that we are might moving towards justice.

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[3] Although the current essay does not include direct references to most of these sources, these studies had a significant influence on the content of this paper.