# Social Justice in the Criminal Justice System

In this essay, the focus is on exploring the issues of rights and social justice as portrayed within the criminal justice system. In order to articulate these issues clearly, the essay will make use of a case study. The premise is that some of the elements of the criminal justice system have been unable to articulate human rights or mete out the expectations of social justice without discriminations.

In the United Kingdom, the focus on human rights has been a significant component of the social justice setup for several centuries. However, it is only in recent times that the law has truly conformed to the attempt to protect these rights and ensure equality for all. In 1948, 50 states adopted the Universal Declaration of Human Rights (United Nations, 2015). The declaration founded on what are identified as the most beautiful words, the belief that all human beings are born free and in equal dignity and rights (United Nations, 2015, p. v). While it is possible to restrict human rights, they cannot be removed from the individual completely under any circumstances that is not a violation of the law. Other than being signatory to the global human rights agreements, the UK has its own provisions under the law that facilitate the capacity for trial and cases of human rights issues. The Human Rights Act of 1988 articulates these rights and provides for the protection of the law for their violation.

Social justice is an expression of the concerns of society regarding what is right and wrong, and the application of these concerns within the context of equality and opportunities within society (Hillman, 2008). Social justice not only articulates correctness or fairness, but also the implications of this fair practice within an economic and social perspective and the perpetuation of practices such as equal wealth distribution and social privilege (Kitching, 2001). Typically, social justice should go hand in hand with criminal justice. Criminal justice should uphold the ideals of social justice in the context of the law (Garside, 2010). However, this perspective often fails where the criminal justice system indicates certain failures in the equality in treatment of all people subject to the law. The enforcers of criminal justice, through discrimination on the basis of aspects such as race and religion, fail to articulate the concerns of social justice especially from the social perspective (Garside, 2010).

## Case Example

Every year, the criminal justice system in England and Wales processes hundreds of thousands of young people. Indications have been that, rather than the system encouraging transformation of lives and eliminating repeat crimes, its approach encourages re-offending due to stressing trauma and distress.

 I am currently working with a male offender from Sudan, who is a refugee. Refugees are defined by the 1951 United Nations Convention as a person who “owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion is outside of the county of his nationality and is unable or owing to such fear is unwilling to avail himself of the protection of that country” (The United Nations High Commission for Refugees, 2010, p. 14).

As a refugee, my client has faced multiple issues. Regardless, my focus here is on the difficulties they encounter accessing good healthcare as well as their treatment under the criminal justice system. Refugees usually will have encountered traumatic experiences before their arrival in the UK, such as in the form of lost families or physical trauma. Due to the experiences they have had in their country, many are at a higher risk of mental illness and could have physical problems.

The man with whom I am working has received two custodial sentences, whilst having a complex mental health issue, Schizophrenia. He was charged with criminal damage of two cash machines and immediately remanded into custody, even though he had no previous history of offending. He stated he felt that the cash machines were watching him and that is why he attacked them. When he was sentenced for these offences he was given a custodial sentence and basic access to health care. Even after his physical health deteriorated further and he struggled to be able to walk properly and use one side of this body, no action was taken by prison. The suggestion from health officials now is that he may have suffered a brain injury whilst in custody, as his mobility issues have nothing to do with his mental health problems.

Due to him not speaking English, he was unable to take part in an evidenced based accredited programme, which is aimed at working with offenders to reduce re-offending. As a result of this, he has not been given access to the same interventions as other prisoners. Whilst in prison he committed a violent offence and was sentenced to a further 10 years in custody. It is still unclear why he did this and he has no memory of this when asked in interviews. Was this due to his lack of medical treatment or suspected brain injury? Nobody has challenged this and as he is isolated, has no family contact and limited understanding of the prison and criminal justice system he has not appealed his lengthy sentence

Indications from current studies have been that the criminal justice system in England and Wales does more harm than good, especially to young adult offenders (Garside, 2010). There have been indications of people from particular populations especially suffering under the criminal justice system due to discriminatory practices among the various agencies involved in criminal justice. For instance, a report from Runnymede and the University of Greenwich report clear disproportionalities in the prisons, with 27% of people being from the BME groups and 15% of the prison population being Muslim (Jolliffe & Haque, 2017). Already, the treatment of this refugee case clearly illustrates the statistics, as the members of the black and minority populations are more likely to be arrested and receive long convictions regardless of the nature of their crimes.

According to Kane (2017), “There have been indications that multiple levels of the criminal justice system exacerbate the mental health issues of offenders and prisoners. Research shows that police interventions involving individuals with mental illness and who were suspected of minor offences were more likely to lead to their arrest”. For offences of equal severity if the person involved had a mental illness, they were twice as likely as those involving individuals with no suggestion of mental illness, to lead to arrest (Kane, et al, 2017). This aspect highlights the treatment of the prisoner before arrest, where his reasons for vandalism indicated his need for mental health care.

According to a report by Edgar and Rickford (2009), prisoners with mental health issues may suffer under programs designed to encourage good behaviour among them. The prisoner in question committed a violent offense in prison, which led to the increase of his prison term. Prisoners with mental disorders are often perceived as manipulative and feigning their health problems, as well as possibly aggressive per the perceptions of the prison staff (Edgar & Rickford, 2009). These issues may result in additional punitive measures, undeserved if their mental health is put into consideration. In this case, therefore, his position of having no recollection of the events should have prompted a review of his mental health and his capacity to stand trial. However, it is possible that misperceptions of his mental health and discriminative assumptions within the system perpetuated his additional sentence.

Working with this client has necessitated reviewing the provisions of the law regarding refugee offenders or other minorities. Indications have been that under the Probation Service such provisions are minimal. There is information on the information to be shared with the Home Office on the risk levels and the types they present, but minimal indications for social support. The translated communication with the prisoner has also revealed he has not had any prior opportunity to express concerns even when signing the release licence.

The Equality Strategy Plan of the National Offender Management Service attempts to promote social justice by encouraging an equal and inclusive system as it is the right thing to do. It touches on the fact that there is currently research indicating more complaints and adjudications on the use of force and segregation among black, mixed race, and Muslim prisoners than the majority population; and yet there are no implementation measures to counter the occurrences (National Offender Management Service, 2017). At the same time, Thomson (2016) elaborates the concept of institutional discrimination along the premise of inequalities being a part of stratified societies.

Based on this perspective, therefore, it is clear that social justice does not always reflect in the agencies of the criminal justice system. The client in this case has undergone discriminative experiences, many of which could have been averted had the levels of racial discrimination been lower and considerations for offender and prisoner mental health been made. Regardless, our work within the Probation System is seeking to redeem this aspect through ensuring non-discriminative practices. The focus on equal treatment and the deliberate consideration for the mental health of clients is a start towards incorporating social justice into the criminal justice system.

Bibliography

Edgar, K. & Rickford, D., 2009. Too Little Too Late: An Independent Review of Unmet Mental Health Need in Prison. London: Prison Reform Trust.

Garside, R., 2010. From criminal justice to social justice. [Online]
Available at: https://www.crimeandjustice.org.uk/resources/criminal-justice-social-justice
[Accessed 25 January 2018].

Hillman, A. L., 2008. Globalization and Social Justice. The Singapore Economic Review, 53(2), p. 173–189.

Jolliffe, D. & Haque, Z., 2017. Have prisons become a dangerous place? Disproportionality, safety and mental health in British Prisons, London: Runnymede.

Kane, E., Evans, E. & Shokraneh, F., 2017 . Effectiveness of current policing-related mental health interventions in England and Wales and Crisis Intervention Teams as a future potential model: a systematic review. Syst Review, 6(1), p. 85.

Kitching, G. N., 2001. Seeking Social Justice Through Globalization Escaping a Nationalist Perspective. University Park, Pa:: Pennsylvania State University Press.

National Offender Management Service, 2017. Equality and diversity. [Online]
Available at: https://www.gov.uk/government/organisations/national-offender-management-service/about/equality-and-diversity
[Accessed 24 January 2018].

The United Nations High Commission for Refugees, 2010. Convention and Protocol Relating to the Status of Refugees, Geneva: United Nations.

Thompson, N., 2016. Anti-discriminatory practice: Equality, diversity and social justice. s.l.:Palgrave Macmillan.

United Nations, 2015. Universal Declaration of Human Rights, Geneva: The United Nations.