

**Notes: Roundtable on Conceptualizing Justice in Socio-Legal Research
Annual Meeting of Law and Society Association
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Introduction:

- Socio-legal justice project concerned about how we conceptualize and measure justice.
- What do we mean when we say that word justice and across different disciplines?
 - In criminology, it's often an outcome
 - In Law & Society, it's a process
- Concept papers were developed focusing on how scholars from different fields conceptualize justice.
- Three questions emerged:
 1. How and when are experiences interpreted as just?
 2. How and when do individuals and collectivities mobilize justice?
 3. What are the implications of varying practices and concepts of justice?

Musheno (Roundtable Chair):

- Need to work towards a multi-dimensional survey for general questions as well as a deeper analysis of justice
- Need a longitudinal study to examine indicators of justice and coordinate this with a 'meta-analysis' to understand the uses of justice across different fields and how it is materialized within the literature.
- Also coordinate with more qualitative instruments
 - Potential source: "What's Fair"
- Idea is to capture how justice is imagined and acted upon in the U.S.
- There has never been a nationally focused broad and deep look about how justice has been acted upon

Gould:

- We can learn from interdisciplinary projects
 - Rather than try to find a common definition, learn from and incorporate each other's practices

Musheno:

- 2 tensions in constructions of justice:
 1. Internal
 - a. historical
 2. Between justice and other normative orderings
 - a. Tension between moral judgment and notions of justice that have a legal bent to them; justice in the legal form is used to carry out moral judgments (mentioned *Cops, Teachers, and Counselors*).

Ewick:

- Justice has a tensile quality to it
- Justice is used in very situational ways. Culturally justice has a very historical and transcendent identity.
- Justice as a means? Justice as an end?
- We use justice to achieve equality, or as an end in itself

Musheno:

- We now start to think about attaching methodological tools to some of these tensions

Morill:

- Survey examinations
- Qualitative methods
 - Ethnographic
 - Textual analysis
 - Visual analysis (non-textual)
 - How do people map justice spatially, alternatives to justice
 - Conceptualizing justice—how have different works measured and used different renderings of justice; “taking stock”
 - Historical framing – changing over time
 - Qualitative meta-analysis (narrative analysis?)

Ewick

- Justice is used as some kind of vague, empty signifier that we just invoke without understanding how it’s measured.
- We need to pay attention to areas where justice is *not* mentioned, “Where there are silences.”
 - Example, it wasn’t in the index of “The Common Place of Law”
- The word ‘justice’ is often used as an “understudy to power”

Gould:

- We do a really good job at describing injustice and unjust acts, but we have a difficult time describing justice.
- What is this term that we are using and how do we not define it (justice).
 - Need to be self-reflective about the use of the word

Musheno:

- The justice/power tension/dimension
 - Power controls the construction of justice; power is implicated in injustice
 - If it didn’t have this ahistorical distinction, then the power inherent in the notion of justice might be diminished
- Europe has moved forward with examining justice, but the US has not

Tyler:

- Justice has been making a lot of impact in regard to the idea of legitimacy, which is an alternative to power.
 - Notion of justice is central to legitimacy
 - Legitimacy is an alternative to power

Unknown:

- No reconceptualization of justice in the U.S. occurring as it has occurred in Europe.

Portillo

- We use the term a lot in our scholarship but rarely define it
 - Because it's so loaded – Ewick's 'J-Bomb'

Ewick:

- Justice as a means to an end to secure compliance of citizens
- Justice becomes something that states refer to gain compliance from citizens, but we need to become more attuned to when justice is not the hand maiden of power.

Nielsen:

- Law and Society (law & social science) is the place to have this discussion
 - To build a research database – large datasets that will be available to a lot of scholars (not meta-analysis).
 - Share data sets that have already been collected which include indicators of justice
- The goal is to look at where we have bites and begin to categorize and to hopefully create a set of indicators that we all can use.
 - Then we can come back and talk about how this concept is deployed in a variety of areas
- This is about who we think we are; about the normative and social sciences. This project is crucial to the continued definition of this field—the intersection between law and social science.

Hirsch:

- Really important to take this project on in interdisciplinary contexts
- It gets at some tensions within law and society
 - A lot of work would be U.S.-focused (literature) but we need to keep an eye open for differences elsewhere
 - Keep our eyes on the tension through a comparative analysis

Reichman:

- What does justice look like at moments in transition?
 - When justice 'flares up'
- Also there is a possibility for us to talk across methods

Weinberg:

- How do we create this larger survey considering what's already available?
 - This also points to multi-method, but multi-perspective.
 - 'Justice 360'
- How do we understand the conflicting interpretations of justice?

Musheno:

- Justice is the afterthought or the policy implications section—need to make his central; make it *the* piece.
- Maynard-Moody and Musheno spent a lot of time thinking about what words they could use to open up conversations about justice.
 - Points to different strategies of method and making sure indicators are highly rich and can be used in various methodological settings.

Pennington:

- Interpretations of justice help create the context in which your studying
- Works with juveniles
 - How do juveniles define and interpret justice
 - Different perspective
 - longitudinal

Ewick:

- Is it always asymmetrical?
- What kinds of relationships are we more likely to see justice a constituent of?

Doran Larson:

- Elaborating on the relational aspect of justice: inmates note that those who represent justice do not have a sense of justice.
 - Cultural differences exacerbate notions of justice
- Inmates see themselves as social sources of any kind of justice within the institution.
 - Hierarchy/order based on the crime they are incarcerated for
 - Institutionally structured relationship

Weinberg:

- Not only relational, but expectations (met or unmet) and whether it is justice or injustice.
- Contrast, see disillusionment and anger with the process when expectation is not met

Reichman:

- Justice is an aspiration; it's never going to be attained or fixed; it is not a fixed state.
- We may always fall short in measuring it because it's not fixed

Portillo:

- Repeated the three questions central to the socio-legal justice project: are we missing anything from these?
 - How and when are experiences interpreted as just?
 - How and when do individuals and collectivities mobilize justice?
 - What are the implications of varying practices and concepts of justice?

Robert Dingswall:

- As soon as you talk about equality, you start competing against other social goods.
- What is justice in competition with, equity?

Portillo:

- Equity is one of those terms that we don't know what we are talking about when we're talking about it.

Morrill:

- Part of the project needs to understand the relational aspects and perhaps legitimacy as well: legitimacy undergirding justice.
 - Networks of words: freedom, equity, legitimacy
 - Aspirational ideas that sometimes engage each other and sometimes contradict one another
 - We don't often understand the tradeoffs of them

Ewick:

- Tradeoffs are example of external tensions among external values

Musheno:

- Some constructs will provide some undergirding and may create tensions as well.

Seda Kalem:

- Need to understand **why** interpret certain experiences as justice and other as unjust (motives).
- The 'why' question may introduce additional value
 - Why interpret experiences as just/not just?
 - Because of established normative explanations

Tyler:

- There's a distinction between procedural and outcome-based
 - People are often very attuned to look at process because we can't ever make the outcome work for everyone
- Law and legal institutions are about creating a framework for resolutions; to work out a solution that will be okay for everyone.
- The reality: reach a solution where justice outcomes are not clear or agreed upon

Reichman:

- We have to careful not to be so law-centric.
- Create justice by some other normative arrangement because law won't work for them
 - Legal justice as a piece of frame

Morrill:

- How much extra-legal action takes place empirically in pursuit of justice?
- 80% of people respond to injustice extra-legally
- Under what conditions do people orient themselves to legal recourse?
- Even within the legal system, still extra-legal recourse

Musheno:

- Where is the push toward law coming from for law as a mechanism of justice? The state? The bottom? The outside to the inside?
 - Temporal/sequential relationship as well

Morrill:

- Justice and law is this fiction that we construct and use in a variety of different ways.
- Justice is fiction in that sometimes it's not there, yet we persist in focusing our analysis on law.

Portillo:

- 'fiction' is not a word to use, but 'aspiration' is less cynical

Tyler:

- People will act on what they consider to be fair, moral, and just.
- Justice is subjective, this understanding is important
- We are no longer using the rational choice model
 - "Justice is a fundamental way that people organize experience; it really matters to them"

Ewick:

- Justice is inter-subjective, not just subjective
 - Accounts of justice are not written out of whole cloth
 - Need to submit them to others for review
- Need to submit our understanding of justice to other understandings of justice.

Hirsch:

- Remove the term or notion of rhetorical

Portillo:

- Mobilization is continuous

Reichman:

- How is justice constructed and not just a subjective construction?
 - Does it come from within, or is it reactionary?

Musheno:

- Cannot ignore the calculation of worker interest. And how do we calculate interest to the notion of justice?
- Tyler has a point – it's fair to say that rational choice was the prominent construct, but it has been challenged in the last 30 years
- How does choice play out with people's sense of judgment of good and bad, right and wrong?
- Lipsky – Workers are driven by internal interest, institutional interest, internal/external tensions

Ewick:

- We really don't have a good way of studying emotion.
- We don't theorize about emotion. Emotion should be an important part of what we look at.

Portillo:

- Really difficult methodologically to measure and describe emotion accurately
- Is justice triggered by emotion, or is emotion triggered by notions of justice

Morrill:

- When people invoke justice, it is with strong and hot emotions (for freedom too)
 - Need to think about how to incorporate a sense of emotional practice
- A lot of emotional suppression in institutions—do you also have justice suppression?

Ewick:

- It may be that people are hesitant to use the word because people don't have the emotion, so they use the word
 - It doesn't align with what they feel

Sterett:

- Debbie Gold's *Act Up*: examines comparative dimensions of what we're talking about
 - Framing anger and grief
- Comparative dimensions at every level
 - Individual-level claims and social welfare/collective claims which are often excluded in U.S. scholarship

Zoric:

- Empathetic responses to injustice become depoliticized → Meghan Boler case study on the politics of emotions

Question brought up from one participant for elaboration on the three central questions undergirding the socio-legal justice project.

Portillo:

- Question 2, “How and when do individuals and collectivities mobilize justice” is most interesting because we are talking about mobilizing justice; things that were less normatively noted.
 - We haven’t seen much on it because we aren’t directly talking about it in these terms, we choose less normatively-loaded terms

Musheno:

- Elaborated construction, construction of justice.
 - To what extent are we going to draw upon that, elaborate, or start from scratch on notions of justice
 - Analysis of works will be strategically important
- Americans think in terms of micro-macro

Nielsen:

- Develop a scale to measure the way that people mobilize the different scales and proceedings
 - Multi-method, multi-perspective, different scales
- There’s a power that different groups have to change scale rapidly
 - Change the level

Gould:

- People are not talking about mobilizing law, but justice?

Robert

- Access to justice

Morrill:

- Not sure if this group is about closing off former conceptions of justice
- This group is about opening up what justice is.
- Think about the level of operationalization
 - It becomes a mixed typology
 - Interrogation of what’s come before as well as using it as a resource

Gould:

- How does question #2: “How and when do individuals and collectivities mobilize justice,” relate to other work that is going on?

Reichman:

- To mobilize justice requires something more than law, but justice.
- Lawyers use law as an organizing mechanism
 - Move people from individual motion to collective voice

- Law gets them in the door, but it's too individual, when justice is a group notion

Bob Nelson:

- Take lawyers out of the center of it
 - Don't load the frame up to begin with
 - Exploration of all the ways people pursue taking care of a problem

Morrill:

- Not trying to close off former conceptions of justice
 - Rather, open them up, open up what justice is
 - Law is one process

Gould:

- How question #2 relates to what's already been done

Portillo:

- Mobilization of justice takes mobilization of law a step further

Reichman:

- There is a difference between organizing and mobilizing
 - Law organizes, but then mobilizing justice requires more than just the law

Discussion shifts when Morrill asks newcomers how their work fits with the current conversation

Tamara Ellis:

- Empirical research in South Asia about access to justice in lower courts
 - Found that there are disparate notions of justice between state and non-state actors

Seda Kalem:

- Studies legal professionals perceptions of justice and law
- This roundtable has been incredibly helpful in sorting out important questions of legal consciousness
- Is justice a political or a state issue?

Laure d'Hondt:

- How to conceptualize environmental justice? What is the proper redress in these kind of cases
 - Conceptualize the problem from the eyes of the victims or the NGOs, it's different

Jeff:

- To what extent do the views of political philosophers such as Rawls align with those of scholars and non-scholars of today?
 - Comparative themes are important
- What explains people's perception of justice—it may come down to culture.

PhD student:

- Seeking to understand how mobilization works in the criminal context.

Laurie Sexton:

- Prisoners and how they make meaning of their punishment.
- Justice is something that is felt to be deserved and achieved.
- Is it fictional, aspirational, or imaginary?

Terezia Zoric:

- Trying to make connections between environmental justice and social justice.
- Is there anything we can say about justice that would be different within the framework of environmentalism?

Unknown:

- Competing notions between state and local and indigenous populations

Mark:

- How does legal consciousness motivate behavior and how do we measure it empirically?

Reiter:

- Being able to put things into context
- Get people to dialog about what justice means in different contexts
 - Bring it into a more public forum

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