

CONCEPTIONS OF JUSTICE ESSAY

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1 - Introduction

Justice is a difficult concept to describe. There are many different conceptions or approaches to justice, as well as many different foundational and normative assumptions from which different understandings are built. These, and other such complexities, contribute to the difficulty of understanding justice in society.

This essay seeks to provide a comprehensive framework for understanding and interpreting justice, which incorporates: understandings of right and wrong; the role of different normative beliefs; and, the impact of order recognized through other approaches on understandings of justice. To organize, clarify, and convey this conception, this essay draws a fairly direct analogy between justice and a puzzle. But first, it is necessary to explain an important assumption of this conception of justice.

2 - Order from Chaos

In order to understand this conception of justice, it is first necessary to understand the primary endeavor of man as an effort to bring order from chaos, which is discussed through Diotima's Ladder in Plato's Symposium. This endeavor is reflected in several different approaches that seek to bring order from chaos, including religion (a quest to understand and recognize the divine order in chaos...laws of God) and science (a pursuit to bring an understanding of how the world works from the chaos and confusion of ignorance...laws of nature). Understanding of man's endeavor to bring order from chaos requires an extensive examination in its own right, but for the purposes of conveying a conception of justice in this brief essay, it will be necessary to accept this assumption of the following discussion.

3 - Solving a SuDoKu Puzzle

For those who are unfamiliar with SuDoKu puzzles, each puzzle is a grid of nine rows by nine columns. Each puzzle begins with numbers (1-9) assigned to several of the 81 squares, and the player must use logic to fill in all the remaining squares based on the existing numbers and rules about how numbers must be distributed through rows, columns, and each of the three-by-three groups of squares in the grid.

The objective of the puzzle is to fill in every square of the grid in a way that does not change any of the pre-existing numbers or that violates any of the rules about how numbers are supposed to be distributed. However, people can change the objective of the game to suit their needs. For instance, a player could try to solve the puzzle as fast as possible, solve the puzzle without making any mistakes, accurately fill in as many squares as possible in a certain amount of time, and so on. Additionally, a player can adopt a variety of different strategies for completing the puzzle. For instance, a player could systematically go through each row and column, take an ad hoc approach to fill in squares when the proper number is recognized.

An unsolved puzzle, with few or no squares filled in, represents chaos. Accordingly, a completely solved puzzle represents order; the more of a puzzle that is completed, the more order is brought from chaos. Considered in this way, the design of these puzzles, as well as the different derivations that can be played, offer an interesting and instructive framework from which to begin developing a conception of justice.

4 - Conception of Justice as a SuDoKu Puzzle

Parallels between the elements of justice and a SuDoKu puzzle provide an interesting means of interpreting the interaction of those elements to develop a more complete conception of justice, or perhaps at least a more complete demonstration of the complexity of justice. Yet, in terms of jurisprudence, law, and society, there is not a single player attempting to solve the puzzle to ring order from chaos, there are multiple and simultaneous players. Consider the following as parallels between a SuDoKu puzzle and jurisprudence: initially assigned squares = normative values; and, strategies for filling in the squares of the puzzle = understandings of right and wrong.

4.1 - Normative Values

To understand justice, it is important to understand the foundational normative values upon which further understandings of justice may be built. Many could agree on common normative values (such as equality, security, and freedom), and together these can serve as the basis for determining the related values (solving other squares in the puzzle). However, not everyone may agree on all these foundational values; some may not agree that freedom is a foundational value of society, and others may not agree that security is value in society (foundational or otherwise). In terms of the SuDoKu puzzle, this means that, from the beginning, society may be trying to solve two different puzzles at the same time. So, the solutions to other squares that are based on these foundational values should be expected to be different as well, though some coincidental overlap is possible.

4.2 - Morality

The two most prominent branches of ethics/morality are teleological (ends based) and deontological (act based). These two branches each interprets a given differently to determine whether the outcome is right or wrong. In terms of a SuDoKu puzzle, these different approaches for determining what is right or wrong could represent different approaches to filling in the puzzle's grid. Even the sub-divisions of these two branches have significant differences in the approaches they would take to solve the puzzle (rule utilitarianism = systematic approach; act utilitarianism = ad hoc approach). These approaches can also reflect different understandings of judicial philosophy (rule utilitarianism = strict constructionism; act utilitarianism = instrumentalism). As with normative values, if different approaches are being used to attempt to solve a puzzle, then it is not surprising that there would be confusion about what solutions should go where.

4.3 - The Puzzle of Law and Justice

Building on the idea of the SuDoKu puzzle, along with the two parallels previously mentioned, it is possible to continue developing a conception of justice through this analogy by making a more detailed comparison. Under this conception, as explained so far, different systems of morality are used to extrapolate different solutions from foundational normative principles as a means of bringing order from chaos.

5 - Additional Complexities Revealed by this Analogy

It is important at this point to distinguish between law and justice, in terms of this analogy. Law is that state of completion of the puzzle at any given time. Justice, on the other hand, is the extent of completion of the puzzle.

The parallels to normative values and morality have shown how the simultaneous operation of multiple aspects of justice can quickly complicate an understanding and interpretation of justice, but there are several other important considerations that have both the potential to significantly influence and further complicate those understandings and interpretations of justice.

5.1 - Complete Solution vs. Most Complete Solution

One of the most interesting and important questions to arise from this analogy is whether a complete solution to a SuDoKu puzzle is possible. In "Some Arguments About Legal Arguments," McCarty (1997) explained that efforts to construct a computerized model of law (equivalent of building a complete SuDoKu puzzle) failed because law on the books was not consistent with itself. We also know that following the law on the books can lead to a violation of the foundational normative values that many hold. McCarty's (1997) effort supports an expectation that a fully complete and internally consistent state of law is not possible, or at least highly implausible. It seems that the state of the law cannot lead to an entirely complete solution. So, the state of law can be assessed as more or less complete.

5.2 - Stable Solution vs. Changing Solution

Given that law can be only be more or less complete, a question arises of whether the incomplete state of law is stable, or whether it is always changing (almost like a shell game) to continue developing and to determine the appropriate solution for a given square in the puzzle even if it calls into question the status of another square. This understanding of the changing nature of law fits with an understanding of greater judicial review where there is conflict of law. This also provides a basis to understand the degree of justice in a given state of law.

5.3 - New Influences from other Endeavors to Bring Order from Chaos

In addition to the subjectivity of the foundational normative assumptions upon which the law is built, these foundational assumptions can be influenced by discovered order from chaos from other disciplines. As a specific example, new discoveries in science can change some of the assumptions upon which the law is built. For instance, where science changes an understanding (e.g. the pains caused by former lethal injection cocktails) or creates a new technology (DNA rape exam kits), our understandings of what is just can change.

In terms of the SuDoKu puzzle, the interactions between other disciplines' efforts to bring order from chaos amounts to the overlapping of puzzles that occurs in the "Samurai SuDoKu" puzzles. In these puzzles, multiple grids share overlapping squares, and to solve one grid it is necessary to solve squares in the other grid. To clarify the analogy, one of the nine row by nine column grids would represent the efforts of jurisprudence to bring order from chaos, and another one of the nine row by nine column grids would represent the efforts of another discipline's effort (e.g. science or religion) to bring order from chaos, and the overlap among them represents the influence of their discoveries on one another.

6 - Conclusion

This essay has sought to provide an outline for conceptualizing justice in terms of a SuDoKu puzzle. The analogy may seem abstract, but it provides a useful means for simultaneously interpreting many of the different factors that can influence understandings of justice. Specifically, this analogy accentuates the importance of: 1) considering how the different foundational normative values people hold can cause confusion when attempting to interpret justice; 2) the effects that different approaches to applying the law can have on its formation; 3) the level of conflict and internal consistency in law's efforts to represent a comprehensive and coherent order; 4) whether and how a given law can be considered just in one case and not in another; and, 5) how other efforts to bring order from chaos can influence understandings of justice. While this conception may not provide an operational method of empirically measuring justice, it does provide a means for more completely understanding many of the important constituent elements and influences.