

Addressing Issues of Justice (and Injustice) in Criminal Justice Education

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Although they use the term “justice” for purposes of self-definition, undergraduate criminal justice courses rarely examine the concept of justice in a systematic way. This paper documents justice’s status as a curricular afterthought in criminal justice course offerings. It also proposes ways to remedy the deficiency it identifies.

“Justice is the first virtue of social institutions,” John Rawls remarks at the very beginning of *A Theory of Justice*. (Rawls, 1971, p. 3) One of the peculiarities of modern criminal justice education is that it does not accord pride of place to justice in the courses students must take to major in the subject. Indeed, the concept of justice appears to be something of an afterthought in criminal justice undergraduate curricula. Many bachelor’s degree programs concentrate almost entirely on social science studies pertinent to the field. Some require students to take courses on policy analysis. A few require courses on ethical issues pertaining to professional roles performed by practitioners. Virtually no undergraduate program, however, offers systematic instruction concerning the term used to define the subject of instruction.

This paper examines the ramifications of the profession’s pedagogical silence on its identifying term. In particular, it proposes remedies for this silence, suggesting ways in which courses can address the subject directly (by considering the nature of criminal justice) or indirectly (by asking students to examine instances of *injustice* and so invite them to reason backwards, as it were, to principles of justice). The paper takes no stand on which strategy is preferable. It argues only that some kind of careful inquiry—not casual commentary, and also not a holistic approach that treats justice-across-the-curriculum as an adequate way to address the subject—is essential given the centrality of the concept for the field.

The starting point for inquiry is straightforward. Justice, it is argued here, is the master concept used to think about the fair terms of social cooperation. *Criminal* justice is the concept concerned with state-imposed punishment for failure to honor those terms. Numerous principles pertinent to justice in general and criminal justice in particular have to be considered in developing

a plausible, internally coherent account of these terms of cooperation and the appropriate response to their violation—among them, concepts pertinent to equal treatment, the relationship between substantive and procedural justice, the boundary line separating corrective and criminal justice, and considerations of supererogation that transcend justice. The paper takes no stand on specific ways to resolve the many conceptual challenges associated with theories of either justice or criminal justice. It relies on a pedagogical, not a philosophical, premise. That is, it holds that the concepts just mentioned are inescapably important for a discipline that calls itself *criminal justice*.

The paper is divided into three sections. The first relies on a survey of current educational practice. After it reviews the framework for undergraduate criminal justice courses proposed by the Academy of Criminal Justice Sciences (ACJS), it examines the core curricula of 50 criminal justice programs offered by contemporary colleges and universities. As will be seen, the ACJS template makes no room for systematic instruction concerning criminal justice while actual curricula tend to treat justice as either an afterthought or else do not address it all. The second section suggests that this omission must be corrected, for the concept of justice cannot be approached casually by instructors in a discipline that relies on the term it employs to define itself. The third section examines two remedies for the omission, one of which invites students to consider first principles of criminal justice while the other works backwards from cases of injustice to principles of justice. Although seemingly incompatible, the paper suggests, the two frameworks are in fact complementary, for each holds out the prospect of reliance on what Rawls calls *reflective equilibrium* to arrive at an internally coherent approach to the subject under discussion.

A Survey of the Academic Landscape

Before there was a field known as *criminal justice*, there was a discipline—or more properly, a subdiscipline—called *criminology*. This line of descent mattered a great deal to the birth of criminal justice. (Morn, 1995) To the founding generation, criminology and criminal justice, while not necessarily identical in meaning, had a symbiotic relationship, one that made it appropriate to rely on a slash for purposes of self-definition and so to speak of *criminology/criminal justice*. The effect of this shared parentage is discernible in the curricular models adopted during the last half-century for criminal justice education, for these models focus almost entirely on empirical rather than normative inquiry into the field's subject-area.

The first important curricular initiative that relied on empirical inquiry was undertaken by the Joint Commission on Criminology and Criminal Justice Standards. It advocated instruction in criminology, policing, corrections, and research methods as well as statistics (Ward & Webb, 1984). Today, the ACJS provides the most widely used template for instruction (Southerland, 2002),

Table 1 ACJS certification standards—required content areas and related topics.

Content area	Related content topics include but are not limited to:
Administration of justice	Contemporary criminal justice/criminology system, major systems of social control and their policies and practices; victimology; juvenile justice; comparative criminal justice
Corrections	History, theory, practice, and legal environment, development of correctional philosophy, incarceration, diversions, community-based corrections, treatment of offenders
Criminological theory	The nature and causes of crime, typologies, offenders, and victims
Law adjudication	Criminal law, criminal procedures, prosecution, defense, and court procedures and decision-making
Law enforcement	History, theory, practice legal and environment, police organization, discretion, and subculture
Research methods	Quantitative—including statistics—and qualitative, methods for conducting and studying criminal justice/criminology research in a manner appropriate for undergraduate students

Source: Academy of Criminal Justice Website.

and ACJS also focuses primarily on empirical inquiry. As can be seen on examining Table 1, the ACJS standards employ the term *justice* on a stand-alone basis to define one content area (*administration of justice*), but they rely on *criminology/criminal justice* to talk about the actual system to be administered (“the contemporary criminal justice/criminology system,” as the authors put it). The slash reappears for the final content area (*research methods*), though it is used here to refer not to the system in which practitioners perform their roles but instead to the research investigators conduct while studying that system. The term *criminal justice* never appears on its own in the ACJS certification standards (Academy of Criminal Justice Sciences, 2005).

In light of the categories employed in this table, it might be said that the authors of the ACJS standards contemplate an exclusively descriptive approach to the study of criminal justice, one in which students are introduced to the causes of crime, the operation of law enforcement and correction agencies and the rules of adjudication followed by the legal system. A caveat that follows the table establishes, however, that the ACJS guidelines rely on normative analysis of two specific issues bearing on criminal justice: diversity and role performance. The caveat states:

In addition to the content areas above, an undergraduate program in criminal justice/criminology includes a systematic examination of the issues in diversity in criminal justice/criminology through either specific required courses and/or the integration of these issues within the program’s curriculum. Further, programs should provide evidence that students are taught to employ ethical perspectives and judgments in applying this knowledge to related problems and changing fact patterns. (ACJS Website, Comment B6)

This paragraph calls for subject-specific, but not general, inquiry into the normative dimensions of criminal justice. It has no necessary bearing (to cite some obvious issues) on the relationship between corrective and criminal justice, the distinction between wrongdoing and dangerousness, the justification for punishment, the exercise of discretion, the appropriateness of criminalizing self-regarding behavior (drug possession, for instance), or the contrast between deontological and consequentialist approaches to criminal justice. A course that deals systematically with the concept of criminal justice would address matters such as these. The caveat paragraph, on the other hand, while unmistakably concerned with questions about equality of treatment and professional ethics, says nothing about the more general normative issues just mentioned.

What are the ramifications of the ACJS guidelines for instruction concerning normative issues relevant to criminal justice? Table 2 shows that, apart from the matters mentioned in the caveat paragraph, normative issues are rarely addressed in undergraduate criminal justice programs. Three criteria were employed in selecting the programs mentioned in the table. First, only programs with the term *criminal justice* in the course prefix were eligible for inclusion. Use of the term *criminology*, even in conjunction with *criminal justice*, was thus a disabling condition for inclusion since the survey was conducted to inquire into instructors' concern with issues of justice in criminal justice education. Second, to insure geographical diversity, one program was selected from each state. And third, to insure that different-sized undergraduate programs were studied, the following criteria were employed. Ten programs were selected because they are lodged in institutions that grant a doctorate in the subject. Another 15 programs were selected because they are lodged in institutions that grant a master's degree, but not a doctorate, in the subject. And 25 were selected because the B.A. or B.S. is the highest degree in the subject offered by the relevant institution.

This table establishes (i) that core and elective offerings in undergraduate criminal justice programs adhere closely to the ACJS content-area recommendations, (ii) that criminal justice courses frequently address the two subjects mentioned in the caveat paragraph (diversity and professional ethics) that call for normative inquiry, but (iii) that few programs offer courses that deal directly with other normative issues bearing on criminal justice.

Twenty of the 50 programs surveyed contain no core or elective course concerned with normative analysis of the concept of justice and no core or elective course devoted to professional ethics. This is not to say that these programs fail to adhere to the ACJS guidelines. Because the guidelines permit a holistic, across-the-curriculum approach to issues of diversity and professional ethics, the 20 programs may integrate discussion of these issues into courses with general titles.

As for the remaining 30 programs, the breakdown is as follows: nine offer at least one course that deals with justice issues and at least one other course that addresses professional ethics, 10 offer at least one course that deals with

Table 2 Core and elective courses offering normative inquiry into criminal justice issues: A survey of programs in the 50 states

State	Institution	Highest degree	Justice course*	Ethics course**
AK	U. of Alaska, Fairbanks	Bachelors	C, E	NC, NE
AL	U. of Alabama, Tuscaloosa	Masters	C, E	NC, NE
AR	U. of Arkansas, Fayetteville	Bachelors	NC, NE	NC, NE
AZ	Arizona St. U.	Doctorate	C, E	NC, NE
CA	Cal. St., Sacramento	Masters	NC, E	NC, NE
CO	U. of Colorado, Colorado Sprs	Masters	NC, NE	C, NE
CT	Quinnipiac U.	Bachelors	NC, NE	NC, E
DE	Wilmington U.	Bachelors	NC, NE	C, NE
FL	Florida Gulf Coast U.	Masters	NC, NE	C, NE
GA	Georgia St. U.	Doctorate	NC, E	C, NE
HI	Remington Coll.	Bachelors	NC, E	NC, NE
IA	Dordt Coll.	Bachelors	NC, NE	NC, NE
ID	Boise St. U.	Masters	C, NE	NC, NE
IL	Quincy U.	Bachelors	NC, NE	NC, NE
IN	Indiana U. East	Bachelors	NC, E	NC, E
KS	Wichita St. U.	Masters	NC, NE	NC, NE
KY	Northern Kentucky U.	Bachelors	NC, E	C, NE
LA	U. of Louisiana, Monroe	Masters	NC, NE	NC, NE
MA	Bridgewater St. U.	Masters	C, E	C, NE
MD	Mt. St. Mary's U.	Bachelors	NC, NE	NC, NE
ME	Thomas Coll.	Bachelors	C, NE	NC, NE
MI	Michigan St. U.	Doctorate	NC, NE	NC, NE
MO	Central Methodist U.	Bachelors	NC, NE	NC, NE
MN	Concordia U.	Masters	NC, NE	NC, NE
MS	Alcorn St. U.	Bachelors	NC, NE	NC, NE
MT	U. of Great Falls	Bachelors	NC, NE	NC, NE
NC	East Carolina U.	Masters	NC, NE	NC, NE
ND	Minot St. U.	Bachelors	NC, NE	NC, E
NH	Granite St. Coll.	Bachelors	NC, NE	NC, NE
NE	Chadron St. Coll.	Bachelors	C, NE	C, NE
NJ	Rutgers U.	Doctorate	NC, E	NC, E
NM	New Mexico St. U.	Masters	NC, NE	C, NE
NY	SUNY Albany	Doctorate	NC, NE	NC, NE
NV	U. of Nevada, Las Vegas	Masters	NC, E	NC, NE
OH	U. of Cincinnati	Doctorate	NC, NE	NC, NE
OK	Southeastern Okla. St. U.	Bachelors	NC, NE	NC, NE
OR	Western Oregon U.	Bachelors	NC, NE	C, NE
PA	Temple U.	Doctorate	C, E	NC, NE
RI	Johnson & Wales	Bachelors	NC, NE	C, NE
SC	Morris College	Bachelors	NC, NE	NC, NE
SD	U. of Sioux Falls	Bachelors	NC, NE	C, NE
TN	Tennessee St. U.	Masters	NC, NE	NC, NE

(Continued)

Table 2 (Continued)

State	Institution	Highest degree	Justice course*	Ethics course**
TX	Sam Houston U.	Doctorate	NC, E	NC, E
UT	Weber State U.	Masters	NC, E	C, NE
VA	Old Dominion U.	Doctorate	NC, NE	NC, NE
VT	Castleton St. Coll.	Bachelors	NC, NE	C, NE
WA	Washington St. U.	Doctorate	C, NE	NC, E
WI	U. of Wisconsin, Eau Claire	Bachelors	NC, NE	NC, NE
WV	Fairmont St. U.	Masters	NC, NE	C, NE
WY	U. of Wyoming, Laramie	Bachelors	NC, NE	C, NE

Keys: C=Core course offered in this category; NC=No core course offered in this category; E=Elective course offered in this category; NE=No elective course offered in this category.

Sources: College websites and course syllabi.

*As indicated in the course title or the bulletin description. When a course title or description refers to racial or gender diversity, the course comes under this heading;

**As indicated in the course title or the bulletin description. When a course title or description refers to professional ethics, the course comes under this heading.

justice issues but do not offer a course that addresses professional ethics, and 11 offer at least one course that deals with professional ethics but do not offer a course that addresses justice issues. As for the professional ethics courses, these typically are taught so as to help officials consider role dilemmas that arise in the performance of their duties. Castleton State's "Ethical Issues in Criminal Justice" comes under this heading. The course's aim, the College states, is "to introduce upper level criminal justice students to ethical theories and help them apply these theories to real-world dilemmas they may confront as criminal justice practitioners." These dilemmas may involve mundane issues (whether to accept a free cup of coffee) or wrenching ones (whether to report the misconduct of a colleague who is also a friend). In focusing on personal conduct issues such as these, an ethics course does not address normative questions related to institutional justice. It is for this reason that ethics courses must be distinguished from those concerned with justice, for the former consider dilemmas that can be resolved at the personal level, whereas the latter consider structural matters that can be addressed only through the modification of institutional rules. This point can be expressed differently by noting that even if an official performs her role in an exemplary fashion she may nonetheless work for a criminal justice system that generates results that are troubling from the standpoint of justice.

In turning to justice courses, we find that most address the specific structural issue mentioned in the ACJS caveat paragraph—i.e. whether women and minorities are fairly treated by the criminal justice system. Sam Houston's "Crime, Justice, and Social Diversity" comes under this heading. As the syllabus makes clear, students are asked to examine justice issues through the prism of racial and gender differences. The general concept of justice is not a

pedagogical concern, in other words; attention is limited to questions about the dimensions of gender- and race-based discrimination in criminal justice. Washington State's "Realizing Justice in a Multicultural Society" is similar in character. It raises questions about equal protection through a series of readings that assess critically America's commitment to unbiased treatment of racial minorities. It does not, however, attempt to situate this concern in a larger framework of normative inquiry into the concept of justice. The Sam Houston and Washington State courses on gender and racial diversity, in other words, consider one piece of a much larger puzzle bearing on the fair terms of social cooperation.

Four exceptions to this generalization merit attention, in particular because they point to the possibility of curricular innovation in the discipline. "Wrongful Convictions," an elective offered at Indiana University East, illustrates how inquiry into injustice can serve as a platform for thinking about justice. "Mis-carriages of Justice," a Rutgers elective, is structured along the same lines. Weber State's "Critical Legal Studies" considers the bearing of class disparities on the criminal justice system. To quote the syllabus, the course "provide[s] a perspective of how the criminal law and justice system are used to bolster the lives of the affluent classes while remaining oblivious or acting as a detriment to the lives of the disadvantaged." The course draws on readings in critical criminology, in other words, to examine the connection between social and criminal justice. And finally, "Justice in America," a Temple elective, considers "the struggle to achieve an appropriate balance between state power to prevent and control crime, and the rights of individuals to be free from undue government control." Unlike the other courses just mentioned, this one actually introduces students to general questions about the fairness of the entire criminal justice system. It holds out the prospect of the kind systematic inquiry essential to the subject.

This said, the Temple elective and those offered at Indiana University East, Rutgers, and Weber State stand out because they are unusual. They go beyond the ACJS caveat paragraph to examine (in different ways) questions about the fair distribution of burdens and benefits in the operation of the criminal justice system. But because they are the only four courses of their kind found in a sample of 50 programs, they underscore the marginal status of normative analysis in criminal justice instruction. Put differently, the fact that the courses just mentioned play a peripheral role in criminal justice programs confirms Willis's conclusion that "exposing justice to inquiry is not afforded the same status within criminal justice departments as learning about and doing empirical work." (Willis, 2012, p. 82)

Bringing Justice to the Fore

Someone unacquainted with the history of criminal justice instruction would almost certainly be disconcerted by the pattern just described. If the title of a

department is *Criminal Justice* and if its courses carry this prefix, the outsider would say, one would expect that justice in general and criminal justice in particular would be core rather than peripheral features of inquiry. History courses are defined by a concern with the past, economics courses by a concern with market exchange, physics courses by a concern with the structure of matter—so why is it that criminal justice courses, this observer would ask, do not subject their core concern to systematic examination?

We can call this the naïve challenge to current criminal justice pedagogy. Like all such challenges, it takes surface factors very seriously. Indeed, it focuses on the surface of the surface—on the discipline’s name—for only a modest effort is needed to establish that the ACJS standards focus primarily on social scientific rather than normative inquiry. Someone responding to the naïve challenge could thus call on the critic advancing it to get over his fixation with superficial appearances and to realize that things are often not what they seem to be. Only a modicum of maturity is needed to realize that people are often not what they appear to be. The same is true of criminal justice programs, a respondent to the naïve challenge would say.

There is a good deal to be said for this retort to the naïve challenge, certainly enough to make it essential to move beyond it in arguing for the centrality of the concepts of justice and criminal justice to the academic programs under consideration. Nonetheless, there is at least one feature of the naïve challenge that rings true, for if criminal justice education operates primarily through reliance on the social science perspectives and methodology characteristic of criminology, it would seem that *criminology*, not *criminal justice*, should be used as the defining term for bachelor’s degree courses in the field. That is, if instructors want to avoid the normative issues inescapably associated with the term *justice*, they should then use the label *criminology*, not *criminal justice*. Otherwise, they are trading on the prestige of a concept whose complexities they are not prepared to examine.

This point, however, goes only to truth-in-advertising. It does not address the fundamental question at stake here—i.e. whether it is worthwhile for undergraduate students concerned with a system that dispenses punishment to think systematically about how to evaluate the fairness of its results. In asking this, one poses a question about institutional structure, not a question about personal ethics, so it will be helpful to address this distinction before taking on the question itself. As the John Rawls comment quoted at the beginning of this paper makes clear, Rawls approached the concept of justice by thinking about institutional, not personal, issues. Rawls’s approach has not always been adopted by commentators on the subject. Indeed, Aristotle quite clearly treats justice as a personal virtue. In the *Nicomachean Ethics*, for instance, Aristotle suggests that justice is perhaps “the greatest of the virtues,” with the result that “in justice is every virtue comprehended.” (Aristotle, 1941, pp. 1003–1004) On this analysis, justice has a personal dimension. It is the master concept of all virtues and so is understandable in terms of excellence of character (*arête*).

Rawls, in contrast, takes the characteristically modern position that justice must be considered from an institutional standpoint. His opening remark in *A Theory of Justice* that “[j]ustice is the first virtue of social institutions” sounds an Aristotelian note through its invocation of the word *virtue*, but it nonetheless points in a fundamentally different direction—one that emphasizes the complexity of modern life by comparison with that of the *polis*—through its reference to social institutions. (Rawls, it should be noted, returns to Aristotelian ethics in a concluding section of *A Theory of Justice*, where he discusses what he calls “the Aristotelian principle,” a principle concerned with each person’s ability to realize her moral capacities.) (Rawls, 1971, pp. 424–433)

One need not endorse Rawls’s specific conclusions about the just arrangement of social institutions to agree that his emphasis on justice as a characteristic of organizational structure must be employed when thinking about pedagogical issues associated with criminal justice. Indeed, the distinction between institutional justice and justice-as-personal-virtue is doubly important in this context, for it helps to account for the difference in subject matter addressed in courses with *criminal justice ethics* in the title and those with *justice* in the title but not *ethics*. The former type of course focuses on personal virtue. It addresses abuses of trust that particularly trouble the public—petty deviations from professional norms such as the free cup of coffee problem but also outrageous improprieties, such as acts of brutality and the acceptance of bribes. This kind of course also addresses dilemmas of discretionary decision-making that rarely attract public attention but that are troubling for anyone seeking to perform her role conscientiously—whether to refrain from making a legally authorized arrest, for instance. The extensive literature on criminal justice ethics courses is concerned with issues such as these. It asks not merely how practitioners can resolve role dilemmas, it also asks how instructors can promote integrity in law enforcement. “Can we expect to make people more ethical by teaching ethics to them?” Cederblom and Spohn ask. (Cederblom & Spohn, 1991, p. 205) Authors of articles on criminal justice ethics courses have not responded to this question with a confident yes. (Lord & Bjerreard, 2002; Pollock, 1993; Wheeldon, 2013) But the very fact that the question has often been posed makes it clear that interest in criminal justice ethics instruction has been prompted by a commitment to promoting personal integrity, not by an interest in asking about the fairness of the institutions of criminal justice.

Once a clear distinction is drawn between courses that address normative issues bearing on personal conduct and those that address institutional structure, it becomes possible to appreciate what instructors can contribute by making the latter a core concern of justice inquiry. As noted earlier, some of the courses offered by programs studied in the survey have made justice, or at least a specific dimension of justice, a central concern. The wrongful convictions electives offered at Indiana University East and Rutgers focus not on the personal integrity of criminal justice practitioners but on the rules by which

the system operates, in particular on the rules that make it possible to correct the injustice of false convictions. Temple's "Justice in America" holds out the prospect of analyzing the entire range of outputs produced by the American justice system—a worthwhile aim, but one that is undercut by the rather breezy terms the syllabus uses to set up the normative questions that inform the course ("Are we doing things right? Are we doing the right things?"). Though excessively casual, these questions nonetheless point in the right direction since they ask about the soundness of institutional rules that promote fair treatment for all.

Weber State's "Critical Legal Studies" also cannot be classified as a course that addresses issues of personal virtue. Furthermore, it should not be grouped with the two courses just mentioned since it is concerned with Marxist critique, a framework of inquiry with complex ties to inquiries into justice. The complexity at stake here is understandable in terms of the following contrast. On the one hand, many practitioners of critical theory bristle with indignation about the current distribution of resources in market economies—and indignation, of course, is an emotion that expresses concern about injustice. On the other hand, Karl Marx's own writings do not rely on the concept of justice or the concept of individual rights. In particular, Marx's *Critique of the Gotha Program* rejects "the narrow horizon of bourgeois right" and instead endorses a slogan—"From each according to his ability, to each according to his needs!"—that treats needs, not rights, as the key idea for assessing social organization (Marx, 1875, p. 531).

It is thus an open question that has to be answered on a case-by-case basis whether a contemporary practitioner of Marxian critique reasons in terms of a rights-based version of social justice or instead relies on the repudiation of this one finds in Marx's writings. A social justice framework lends itself to systematic analysis of the steps that will restructure public institutions to further individual rights (indeed, Rawls often refers to social justice in *A Theory of Justice*). (see, e.g. Rawls, 1971, pp. 9 & 107) The framework that informs *The Critique of the Gotha Program*, on the other hand, is incompatible with this approach; in fact, Marx's dismissal of rights-based reasoning in that essay intimates his endorsement of a form of social organization whose structure has no connection with *justice* as that term is employed by either Aristotle or Rawls, for as Allen Buchanan notes, "Marx does not envisage a role for principles of justice in communism because he denies that conflicts in communism will be significant enough to require such principles." (Buchanan, 1982, p. 33) For our purposes, there is no reason to consider further these different strands of critical theory. Rather, what must be emphasized here is that the remainder of this paper focuses only on social justice as this concept is employed in a rights-based framework. When reasoning in this vein, students can raise institutional questions pertaining to justice, not merely about criminal justice itself but also about the distribution of resources in a well-organized society. This social justice/criminal justice connection (Heffernan & Kleinig, 2000), while not what Marx had in mind when relying on critical theory, offers a promising

way to think about structural parallels between society and the administration of criminal law.

In thinking about the institutional perspective common to each of the courses just mentioned, one can discern a broader possibility—the possibility of treating justice as the informing principle of a core curriculum in criminal justice. Considered in isolation from one another, the four courses just reviewed amount to nothing more than a patchwork curriculum. By focusing on the institutional perspective common to each, however, one sees how normative questions about the fairness of the American criminal justice system can be raised throughout the core curriculum. In particular, four themes can be used as anchors for the criminal justice core. The themes discussed below complement the ACJS structure. They do not supplant the descriptive perspective essential to social science research. Rather, they alert students to the evaluative questions that properly arise given social science findings pertinent to the field. The themes are:

State-imposed punishment as the defining feature of criminal justice

Punishment—a condemnatory practice that can be justified only when an offender has engaged in wrongdoing—is imposed by institutions with no connection to criminal justice. Parents punish children; professional associations sanction their members; churches expel heretics. The distinctive feature of criminal justice is the fact that its officials have the exclusive power to inflict pain in a condemnatory fashion on those found to have violated the law. Each of these points merits careful analysis. The justification for punishment is by no means clear. (Boonin, 2008) The nature of wrongdoing is also contestable. And finally, the state's monopoly role in the criminal justice system is itself open to challenge, in particular the exclusive power of prosecutors to decide whether to initiate criminal proceedings. (Terzano, McGee, & Holt, 2009)

Criminal justice as reliant on an amalgam of substance and procedure

To determine whether someone has engaged in wrongdoing, one must address a substantive question (why was the defendant's act wrongful?) and a host of procedural questions (what evidence is there to show that the defendant actually committed the act charged? How was this evidence obtained? Was the defendant fairly treated when taken into custody?). Numerous options are imaginable for thinking about the balance that might be struck between substantive and procedural conceptions of criminal justice. It is essential for students to consider options in this context other than those endorsed by the Supreme Court. A program focused on justice should not take the outputs of the legal system as just but should instead offer students criteria for evaluating those outputs. (Roach, 1999)

Criminal justice against a backdrop of social injustice

Offenders charged in American criminal courts are disproportionately drawn from the poorest quartile of American life. Because this is so, the study of criminal justice inescapably raises questions about social justice. Numerous

options merit consideration when addressing the social justice/criminal justice connection. In particular, students should examine victim as well as offender characteristics—and so should consider the way in which the criminal justice system vindicates the rights of others who are not merely disproportionately poor but also disproportionately old and vulnerable. Policy issues, questions about wealth distribution, and social science findings about offender and victim characteristics are all relevant in this context. One cannot ignore the findings of criminology here. Rather, one must consider them in conjunction with evaluative perspectives associated with justice. (Reiman & Leighton, 2010)

Beyond justice

Important as justice is for ensuring the possibility of ongoing cooperation, there are occasions when social life depends on something more. Supererogation is appropriate in some settings—that is, instead of insisting on justice for wrongdoers, people should be prepared to respond to others with kindness, compassion, and forgiveness. Advocates of restorative justice have made important contributions to criminal justice research in part because they have identified supererogatory goods that transcend justice. (Braithwaite, 2002) In addition to the restorative justice emphasis on victim-offender reconciliation, students should consider the role of mercy in leavening justice. Acts of forgiveness and acts of mercy are distinct in an important way: the former are understandable in terms of a victim's willingness to relinquish a claim against an offender, the latter in terms of the willingness of an official (not herself harmed by the offender's act) to grant an exemption from the demands of justice. Clearly, the latter is more troubling than the former. As such, it merits careful analysis on its own, for mercy, unlike forgiveness, does not involve supererogation. But even mercy is an indispensable component of social life, for it is an essential solvent to unrelenting justice. (Hampton & Murphy, 1988)

This brief overview of themes is sufficient to demonstrate how much is lost in a curriculum that marginalizes normative inquiry into criminal justice. The approach proposed here has only a tangential bearing on virtue in the Aristotelian sense of the term. Rather, it is concerned with the features of institutional life that either promote or undermine the possibility of fair treatment of individuals. No one preparing to take a job in the criminal justice system should be deprived of the opportunity to examine critically the issues just mentioned. Indeed, it is reasonable to suppose that students who will one day assume positions of responsibility within the system will rely on the education they received in order to introduce measures that improve on the structure of their institutions.

Two Ways to Bring Justice to the Fore

"In the little world in which children have their existence," Charles Dickens has Pip remark in *Great Expectations*, "there is nothing so finely perceived and finely felt, as injustice." Amartya Sen quotes this passage in the preface to *The Idea of Justice* to emphasize how discussions of justice often originate in

indignation about injustice. (Sen, 2009, p. vii) Sen's point has unmistakable implications for college instruction. It is possible to organize criminal justice courses around discussion of the key principles of justice—and so to move down from a high level of abstraction to concrete cases. However, it is also possible to begin with examples of injustice and to work up from these to identify principles of justice. Each strategy has its strengths and weaknesses. This final section reviews their merits. In doing so, it takes no stand on which should be adopted. Instead, it notes how each can contribute to sound educational outcomes.

Before turning to a comparison of the two strategies, however, it is essential to comment on one approach that should be avoided: a justice-across-the-curriculum framework that calls on every instructor in a criminal justice bachelor's program to address justice issues but that imposes no specific responsibility on anyone. To say this is not to suggest that a holistic approach should not be adopted *in addition* to a first-principles or concrete injustice strategy. Rather, it is merely to say that holism alone diffuses responsibility in such a way as to undermine the goals to which it is purportedly committed. Just as a writing-across-the-curriculum cannot be sufficient by itself to promote good student writing, a justice-across-the-curriculum is insufficient, on a stand-alone basis, to deal with the substantial issues noted in the prior section.

In deciding whether to start out with justice or injustice, instructors face an interesting question about pedagogical trade-offs. A course on wrongful convictions (it will be recalled that electives on this subject are actually offered at Indiana University East and Rutgers) helps to illuminate the strengths and weaknesses of a focus on injustice. A conviction for which there is abundant, after-the-fact evidence concerning someone else's guilt stands as a concrete, paradigm case of injustice, and paradigms offer appropriate starting points for reflecting on normative issues. If a reviewing court, on being confronted with clear-cut evidence that someone else committed the crime for which a defendant was convicted, nonetheless refuses to set aside the conviction, students are confronted with an unmistakable miscarriage of justice. Something of this kind fuels indignation and so motivates students to tackle a subject more seriously than they otherwise might. In this respect, starting out with a paradigmatic case of injustice is a pedagogical good.

There is also an important drawback that accompanies the injustice strategy. Although everyone will agree that the paradigm case just noted involves an injustice, agreement on this will not necessarily make it possible to resolve less clear-cut cases involving (possible) wrongful convictions. What if the evidence at issue is less than conclusive? What if a substantial period of time has passed since the initial conviction, with the witnesses against the defendant having died or disappeared? What if physical evidence critical to the conviction is no longer available? Provided a teacher is willing to explore gray areas such as these, the starting point—an obvious case of injustice—will also provide a useful way to begin reflection on general principles of justice. If not, though,

the students' encounter with injustice will turn out to be an intellectual dead end. It will offer them an opportunity to let off steam, but little else.

As this example suggests, there is indeed a way, in at least some instances, to start with a clear-cut case of injustice and work backwards to the principles of justice that clarify why an injustice was at stake. There are many instances, however, in which this kind of backward-moving approach may turn out to be disappointing. Consider, for instance, how little is sometimes resolved even when there is agreement on a paradigm case. It seems likely everyone would agree that the death penalty should not be imposed for double parking. However, in this instance, we encounter something missing in the wrongful conviction example: the possibility of differing reasons as to why something is unjust. Some people might oppose the death penalty for double parking by citing the retributive claim that disproportionate punishment is impermissible. Others might oppose it because they object to the death penalty itself. Still others might reject it because they are opposed in principle to the practice of punishment. Everyone might well agree that an injustice has occurred, in other words, but they nonetheless might "unpack" the term in different ways.

Does this mean that the start-with-injustice strategy should be abandoned? Not necessarily, for in emphasizing that there are different reasons for treating the paradigm case as objectionable a teacher can also introduce students to the multi-sided controversies associated with the justification of punishment. It is arguable, though, that students might find it easier to begin with a forthright statement that there are numerous different facets to the debate over punishment—and that a paradigm case of injustice will not help them come to terms with the multidimensional debate over this. Put differently, it is essential to concede that the payoff from injustice-as-starting-point is sometimes modest. When it is, instructors would be well-advised not to use it.

The payoff from starting out with first principles is also sometimes weak, however. This point is particularly pertinent to what Rawls calls *ideal theory*—that is, those principles individuals would adopt when reasoning from behind the veil of ignorance while assuming that everyone else engaged in deliberation is willing to comply fully with the principles adopted. Criminal justice is a concern precisely because some people are unwilling to comply with the principles that would be adopted as a matter of ideal theory—or, as Rawls puts it, "[t]he question of criminal justice belongs mostly to partial compliance theory" (Rawls, 1971, p. 315) Because it does, instructors who reject the injustice route have to follow a two-stage process of inquiry. First, they have to review with students the decision-procedure essential to the development of ideal theory. In particular, they have to examine key concepts such as the original position, the veil of ignorance, and the circumstances of justice. Second, having reviewed these concepts, they have to introduce other concepts essential to the partial compliance theory essential to criminal justice (the four-point outline of justice issues pertinent to criminal justice presented in the previous section can serve as one possible inventory of relevant concepts). This two-stage process of inquiry is somewhat complex, then, but it is by no

means pedagogically infeasible. Indeed, an instructor might prefer it since it promotes the possibility of systematic reasoning in a way that ad hoc consideration of instances of injustice does not. Nonetheless, it has to be conceded that the strategy of principles-identification may seem distressingly abstract and so somewhat forbidding to students by comparison with a strategy that begins with paradigmatic instances of injustice.

This said, it is essential to reiterate a point made earlier—that the two strategies, though they begin from different starting points, are ultimately complementary. An instructor who begins with first principles will want to comment on instances of injustice; in doing so, the instructor will clarify the scope of the principles under consideration. Similarly, an instructor who begins with paradigm cases of injustice will want to identify first principles of justice, for without this effort the instructor will settle for little more than intuition and indignation. Moreover, there is no reason why an instructor cannot use each method at different times during the course of a semester, for each relies on what Rawls calls *reflective equilibrium*—i.e. a person's willingness to revise principles in light of intuitions about justice or to question intuitions so as to promote coherence within principles. (Rawls, 1971, pp. 46–53) Instruction in justice can rely on either of the starting points reviewed here since both lead in the long run to the same mental process of reflective equilibrium. Pedagogical dogmatism, we can thus fairly say, is out of place here. What matters is whether an instructor finds an effective way to communicate complex ideas to undergraduates.

Conclusion

One of the anomalies of modern criminal justice education is that it treats the concept of justice as an afterthought for undergraduate instruction. The survey of 50 geographically dispersed bachelor's degree programs in criminal justice presented in this paper documents the extent to which it is an afterthought. This paper argues that the concept of justice should be brought to the fore; in particular, it suggests themes that must be addressed if undergraduate education in criminal justice is to come to terms with its roots in the concept of justice. The paper also proposes two strategies for bringing justice to the fore. One begins with first principles of justice and seeks to apply these principles in specific settings. The other begins with paradigm cases of injustice. Instructors taking this approach, it is suggested, can work backwards from the sense of injustice to first principles that can be invoked to account for why an injustice has occurred. The two approaches are complementary and so can be used on different occasions while inquiring into specific themes of justice.

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