



Perceptions of Justice and the Road to Justice
Questioning the meaning of justice and what sense it makes happens every day, based on ordinary people's lived experiences of the justice system. The Judgement on the Ayodhya issue has only brought the issue in sharp limelight. The concluding words in a book titled *Justice: What's the Right Thing to Do* by Michael J. Sandel are reverberating in my mind, "A politics of moral engagement, is not only a more inspiring ideal than a politics of avoidance. It is also a more promising basis for a just society."

And so I go on to recall various instances where justice, which includes the road to justice, was interrogated by ordinary people. I hear women talking about their toil on their family fields and housework, while their husbands are 'working' and 'earning'. When the case goes to court, the husband talks about how anything that was bought was purchased out of his 'hard earned' money. And so it is as if the woman has put in nothing towards any major purchases such as a flat or a piece of land or any other valuables. This narrative, when constantly repeated in the course of the case, is very torturous for the person who has put her sweat and toil in raising the family, and maintaining the family house. She wonders if she approached the Court to hear these sort of contentions being repeated *ad nauseam* in arguments, in the court pleadings. Is the road to justice about secondary victimization, becomes the moot question.

And the reactions in the Court? They are many and varied. Other lawyers present in the court may either be sensitive and appalled by the contention of the spouse to be the sole earner, or may actually be conditioned to think the wife contributes nothing because she doesn't bring a monthly pay packet. There can similarly be different approaches in the judiciary. It will be a while before the court case ends, and if she is able to emotionally, mentally, physically and economically sustain herself till the end of the case, she just may find some light at the end of the tunnel. If she has to settle for crumbs, just because there is no option offered, or she does not have the sustaining capacity, then that is what justice looks like for her - a never ending maze from which it is better to recede to whatever little sunlight there was earlier.

You also have someone telling you how he struggled to keep the family house afloat, while all the relatives suddenly swooped in from far and wide, and crawled out of the woodworks as it were, once the title documentation was retrieved and also the documentation relating to succession was in place, to make a claim for it. He then had to locate long-lost cousins from across the oceans and have the court send them notices, and spend valuable time in the process, only to be questioned by a good many of them as to why he 'took' them to Court. The response then because of this threat perception by the relatives is that they keep

stretching the case, with the person who took the initiative to put things in order being crucified all the while, or even after the case is decided. This crucifixion is how justice appears to him.



Then there is the balancing act that is often talked about. I always thought balancing the scales meant throwing weight on the side against whom the scales are tilted. But some interpreters of law, in their wisdom, end up putting the same amount of weight in both the scales, leaving it as tilted as it was when it started. They wanted to give a balanced judgement, they say. So, for instance, in a case for custody of the child, the tendency has been to talk of shared custody, so 'both can be happy', never mind if sometimes the father's role has been akin to a sperm donor, no more; never mind what may be in the best interests of the child; never mind if best interests are not defined by toys and goodies given to the child occasionally during visits, while no maintenance is forthcoming from that parent for the daily survival of the child.

Or there is also this goading for settlement by courts. Let us call it settlement justice. Settlements do have the potential to bring a dispute to resolution. But settlements cannot be the settlement as in the quiet of the graveyard. Also, sometimes settlements are forced - there is a distinct tone reflecting in the judge that a person is asking for more than what is actually her right, and the party feels that since the judge is saying so, if she proceeds in court, she won't get anything more than what is offered in this settlement that the judge seems to be endorsing. So she unhappily settles for this unsettling settlement.

Sometimes settlements by organisations, such as banks and insurance companies, are simply arbitrary, to say the least. In mass settlements by banks, for instance - and this usually precedes elections - cases of different parties in like circumstances are dealt with differently. For example, a co-operative bank approaches the Legal Services Committee or Authority and tells them we have a whole lot of cases which we cannot ordinarily settle because our auditors will raise queries on how it was settled with waiver of the entire interest amount for somebody. But if the settlement is arrived at at the Lok Adalat, they can always say Lok Adalat members suggested. It seems rational, and so a special adalat is organized with much fanfare and publicity.

At the Lok Adalat, the banks come with similar cases, where the same social status, similar amount borrowed, similar pattern of defaulting, similar circumstances are involved, but they agree to settle one lot and do not agree to settle another whole lot. The Court or Lok Adalat is sometimes left with no option but to sanction those settlements taking place through an order, although they seem very arbitrary and leave a whole set of persons out of the pale of this mass settlement initiative. Naturally, the persons whose cases with similar circumstances

were not considered are going to see justice as arbitrary?



Besides that, the traditional perception of justice or the process towards it as reflected in the Konkani proverb, *Goyncho neai ani vhaddlelem cheddum sogleanchea ghorak nosai* (No family would want Goan justice and a grown up girl). And why? Because there were uncertain costs connected to both, the extra dowry it may need to get a girl who is beyond 'marriageable age', married, and the high fees, given the uncertain amount of time that the Court takes to reach a conclusion.

In the ultimate analysis, this perception of justice, as arbitrary, unfair, imposed, or unaffordable is because the justice system does not engage enough with ground realities.

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