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Justice: What Is It and How Can You Ensure Your Patients Receive It

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Abstract.

This article discusses the important concept of justice, one of the four ethical principles developed by Beauchamp and Childress (2019). Gillon (1994) divided justice into three categories: distributive justice, rights-based justice and legal justice. Justice also forms an important part of British values regarding democracy, the rule of law, individual liberty, mutual respect and tolerance of those of different faiths and beliefs. Following an introduction defining what is meant by the term justice, the relevant and pertinent parts of the Nursing Midwifery Council (NMC, 2018a) code will then be identified and presented. There will then follow a discussion on the three categories of justice by Gillon (1994) and how justice fits in with British values. Finally, this discussion will point towards how justice can be achieved for the patients in your care and the colleagues you work alongside.

Key Words: British Values, Distributive justice, Ethical Principle, Justice, Legal Justice, Nursing Associates, Rights based justice, Support Workers.

Introduction

Often presented as the fourth ethical principle, 'justice' is equally important to the preceding three principles; 'respect for autonomy', 'nonmaleficence' and 'beneficence'. Gillon (1994) divided justice into three categories: distributive justice, rights based justice and legal justice. Defining justice, Hendrick (2004:7) states that it is 'equal treatment of equal cases'. It is about treating all patients the same.

However, when patients' needs are more complex than others, sometimes those patients need to be treated differently. For example, within justice, it is permitted to give extra care and support to a patient requiring help with mobility compared to another who can mobilise freely. It is about meeting each patient's needs fairly.

Regarding this, Griffith and Tengnah (2020:40) asserted that 'equality is at the heart of justice; it is important to treat equals equally and to treat unequals unequally in proportion to the inequalities'.

NMC (2018a) Code.

Within the Code, some clear areas support the concept of Justice. Under 'prioritising people, treat people as individuals and uphold their dignity', 1.5 states to 'respect and uphold people's human rights'. Also, within this section, 3.4 states that you 'act as an advocate for the vulnerable, challenging poor practice and discriminatory attitudes and behaviour relating to their care'. Following these recommendations would clearly demonstrate justice for your patients. Section 4.3 gives a clear charge to protect patients who may lack capacity, ensuring their rights and best interests are at the centre of decision-making while section 5 focuses on confidentiality and a patient's rights in this area.

When a patient has had the potential to suffer harm or has suffered harm, what needs to happen as described in section 14's 'preserve safety' includes acting immediately, explaining fully what has or could have happened, apologising, and formally documenting so further action can be taken. Also, within 'preserve safety', section 17 highlights the need to protect anyone who is vulnerable, with 17.3 stating that you must 'have knowledge of and keep to the relevant laws and policies about protecting and caring for vulnerable people'.

Distributive, Rights-Based and Legal Justice (Gillon, 1994)

Within the three categories of justice as identified by Gillon (1994:185), distributive justice is otherwise known as the 'fair distribution of scarce resources'. Upton and Smith (2020:300) affirm that 'all patients should be given what is due to them, treated fairly and without discrimination.' They go on to say that this is not always possible given the limited resources at the NHS's disposal, which leads clinicians to make difficult decisions regarding patient care. These decisions need to be both ethical and legal so that patients are not discriminated against (Gallagher and Hodge, 2012). Griffith and Tengnah, (2020:31) highlight that one of the moral concerns is about 'maximising the benefit produced by the available resources.'

Within rights-based justice, Gillon (1994) stated that this is about respecting people's rights. Rights apply to everyone no matter who they are. The knowledge support workers/nursing associates have regarding their rights, and their patients' rights is an important issue. Patients may not know their rights within health and social care, and healthcare professionals are duty-bound to inform them and advocate on their behalf to make sure their rights are received. Therefore, in the context of contemporary healthcare delivery, it is imperative that professionals understand and apply current

legislation and address any power differential between professionals and patients. Working collaboratively with patients and family members or next of kin is at the core of nursing practice. Support workers/nursing associates who will be working closely with registered nurses are expected to lead and coordinate care that is person-centred, compassionate and evidence-based (NMC, 2018b). There is a need to “listen to people and respond to their preferences and concerns” (NMC, 2018a). Even though these professional values are fundamental to care, clinical negligence could easily result from miscommunication. Hence, the NHS pays out a significant amount of money to patients as compensation on behalf of healthcare professionals (Mutsatsa, 2017). To match the NHS’s long-term plan’s ambition to support individuals to age well irrespective of age (NHS, 2019), the Human Rights Act 1998 (Legislation.gov.uk, 1998) must be duly respected. In this vein, article 8 could be breached if patients’ concerns regarding the unpleasant side effects of antipsychotic medications are not adequately addressed or when there are no justifications for intrusive searches or a high level of observation whilst in your care.

Therefore, doing justice by patients means ensuring that the fundamentals of care are adhered to by healthcare professionals. A new whitepaper published this year suggested changes to the Mental Health Act 1983 (Gov. UK, 2021), and at the core of this report is the need for patients’ rights to be respected in terms of their treatment and care. The four key principles of the Mental Health Act reforms make it imperative that views and choices of patients are respected, that critical discourses amongst members of the multidisciplinary team ensure that the power of the law is applied in the least restrictive manner. Also, there is an expectation that patients are supported and empowered on their journey to recovery, and interventions are individual-centric. These virtues, alongside critical thinking skills, will be great assets needed to protect

patients' lives as interventions must be proportionate and justifiable. Healthcare professionals must acknowledge patients' individual agency, and their decisions must be free from external pressure. As stipulated by NMC (2018a), these highlighted principles align with the need to practice safely and give credence for the need to afford patients compassionate care. Such attitudes will have positive ramifications for decision-making processes within clinical environments.

Legal justice, or as Gillon (1994:185) states, 'respect for morally acceptable laws' means that as members of the society we live in, we must abide by the laws set out. Several laws are directly applicable to health and social care; however, the Equality Act 2010 (Legislation.gov.uk, 2010) is the one piece of modern legislation concerning justice that protects individuals from discrimination within nine protected characteristics.

Age	Disability	Gender Re-assignment
Marriage & Civil Partnership	Race	Religion or Belief
Sex	Sexual Orientation	Pregnancy & Maternity.

Table One: Protected Characteristics (Legislation.gov.uk, 2010).

Within healthcare, the Equality Act 2010 is concerned with both the delivery of care and fair access to it. As healthcare professionals, you need to make sure that the care you deliver is accessible to all (Gallagher & Hodge, 2012). However, the Act also applies to everyone equally, whether patients, your colleagues, or yourself. If you witness discrimination, you have a duty to challenge it (NMC, 2018a). If you do

not, this makes you complicit in the discrimination, as you are allowing it to happen (Stonehouse, 2021).

Justice, in Regard to British Values of Democracy, Rule of Law, Individual Liberty, Mutual Respect and Tolerance of Those of Different Faiths and Beliefs

Concerning democracy, demonstrating justice for your patients is about making sure they are empowered so their voice is heard. This will enable them to become active partners in their care and the planning process (Stonehouse, 2020). If the patient cannot speak up for themselves, then your duty is to act as an advocate for those in your care (NMC, 2018a) by acting in their best interests.

Regarding the rule of law, we all live within the legal system, which is there to protect and safeguard us. These safeguards follow through into all aspects of our lives, including health and social care. Patients are protected in a wide range of areas, for example, confidentiality, consent, mental capacity, provision of mental health services, and deprivation of liberty safeguards, to name a few. When policies and procedures and the NMC (2018a) code are followed, patients receive justice.

About individual liberty, it is about supporting your patients in making free choices. To achieve this, patients must be given the correct information in a way that is accessible to them, concerning their care and their options, so they can make informed decisions (Department of Health, 2012). Once that decision has been made, it must be respected and supported, whether it is to accept treatment or not (NMC, 2018a).

Mutual respect and tolerance of those of different faiths and beliefs apply to everyone. For your patients, it is about 'respecting them as individuals in their own right and receiving the same respect back from them' (Stonehouse, 2020:355). It is also, as the NMC (2018a) code states, mutual respect between colleagues respecting each other's contributions. Of course, an important part of respect is linked to the Equality Act 2010 (Legislation.gov.uk, 2010). As a support worker/nursing associate, you need to know the nine protected characteristics (See Table 1). It is then 'your duty to challenge any discrimination, either directed towards patients or your colleagues' (Stonehouse, 2020:356).

The Role of the Support Worker

It is important that you demonstrate justice to your patients and in your interactions with colleagues. Having an awareness of the principles of justice will allow you to be the advocate for your patients and colleagues, also, speaking out if you see any injustices or discrimination taking place. To do this requires you to have self-awareness, emotional intelligence and courage so you can help your patients and colleagues.

Conclusion.

So, to conclude, this article has discussed the important ethical and legal concept of justice and how it can be demonstrated to patients and their care. Thinking about justice within our practice will naturally lead to patients being shown respect and dignity while being able to access the services they require. Only when all patients and colleagues are treated fairly in a non-discriminatory way will justice be achieved and, therefore, quality care delivered.

Key Points:

1. Justice is an important ethical and legal principle.
2. Individuals need to be assessed so that their individual needs can be met.
3. All patients need to have equal access to services when they need them.
4. The Equality Act 2010 is the key piece of legislation protecting patients, colleagues and ourselves from discrimination.
5. Justice and the principles of British values go hand in hand.

Reflective Activities for Your Continuing Professional Development

Take ten minutes with a cup of tea or coffee to sit down and reflect. Think back to a recent shift and consider the ways you have demonstrated justice to either your patients or colleagues. Can you identify anything which may cause a barrier to you achieving this? How can these barriers be diminished or removed altogether?

Now think back. Can you identify any behaviour from either a patient or colleague, which you now would consider to have been discrimination? What happened at the time? Would you now act differently if a similar situation were to happen again?

What would you do?

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