



empowerment series

# Foundations of Social Policy

## *Social Justice in Human Perspective*

SIXTH EDITION

Amanda Smith Barusch





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# Foundations of Social Policy

## Social Justice in Human Perspective

Sixth Edition

**Amanda Smith Barusch**

*University of Otago, New Zealand and  
University of Utah, U.S.A*



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Australia • Brazil • Mexico • Singapore • United Kingdom • United States

**Empowerment Series: Foundations of Social Policy: Social Justice in Human Perspective, Sixth Edition**

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*Dedicated to my beloved, Lawrence Roos Barusch*

# Preface

*Social workers promote social justice. . . .*

—PREAMBLE TO THE NASW CODE OF ETHICS (1996)

Social justice is central to the mission of social work and the focus of intense debate throughout the world. Social work professionals contribute to these debates, providing a personal and deeply empathetic understanding of the consequences of injustice for the vulnerable populations we serve.

Like most people, social workers (and social work students) understand justice less in an abstract sense and more in the ways events and conditions affect individual lives. This text takes a human perspective on social justice, focusing on the ways individuals shape policy as well as the ways policy touches our lives. Most chapters begin with human examples that help focus our analysis and critique. Content also includes biographical material on policy leaders and the direct experiences of social advocates. At the same time, the book takes a global look at social policy. Together, the international content and the human perspective prepare students to work effectively in policy arenas that extend beyond the traditional turf of social work and equip them to advocate for vulnerable people in the United States and throughout the world.

## About the Book

This book is designed for use in foundation social policy courses and is organized in three parts. Part I introduces U.S. social policy and policy practice, Part II addresses social problems that have been (or are becoming) targets for collective action, and Part III focuses on vulnerable populations. A brief conclusion addresses global social policy concerns. Discussion topics, web-based exercises, suggested readings, and relevant websites are included at the end of each chapter.

Theoretical content is interspersed throughout. Social justice theory is addressed in detail in Chapter 1. The introduction to Part II offers a framework for understanding when and why certain problems become the targets of collective action. The introduction to Part III considers discrimination and oppression from a theoretical perspective and introduces the concepts of **intersectionality** and **implicit bias**. Finally, theories of liberation are discussed in the Conclusion.

Part I includes Chapters 1 through 3. Chapter 1 discusses social justice from theoretical and philosophical perspectives, tying these viewpoints to contemporary U.S. social policy. The role of government in promoting social justice is the focus of Chapter 2, which links philosophical perspectives to contemporary politics and describes the structure and function of the U.S. government and provides an introduction to U.S. tax policy. Chapter 3 begins with a case study in advocacy and then presents policy analysis frameworks and techniques before addressing philosophical and tactical considerations in policy practice.

Part II introduces a framework for determining when a group or a nation will develop collective responses to social problems. Chapters in this part of the book examine problems that have been approached through collective action in the United States: Social Security (Chapter 4), poverty and inequality (Chapter 5), physical illness (Chapter 6), mental illness (Chapter 7), disability (Chapter 8), and criminal justice (Chapter 9). Each chapter opens with a human perspective. These brief case studies are based on interviews with people chosen because their experiences illustrate key issues related to the chapter's topic. Following the case study, we explore the development of policies and services, as well as contemporary policy issues and debates. These chapters provide background material necessary for students to apply the policy analysis frameworks introduced in Chapter 3.

Part III introduces the concepts of discrimination, oppression, implicit bias, and intersectionality. Each chapter explores a population that has experienced oppression in the United States: people of color (Chapter 10); gay, lesbian, bisexual, and transgendered individuals (Chapter 11); children (Chapter 12); women (Chapter 13); the elderly (Chapter 14); and working Americans (Chapter 15). The structure of these chapters mirrors Part II, with the addition of major social/demographic trends affecting each population.

The book closes with a glance toward the future of our profession within a global context. Following an introduction to theories of liberation, the Conclusion revisits the philosophical perspectives presented in Chapter 1 and considers the implications of globalization, rising inequality, and environmental justice for the social welfare state and the social work profession.

## What's New in the Sixth Edition

When I began working on the first edition of this book, I never imagined it would extend to a sixth edition. Each revision has brought the tantalizing fantasy of absolute perfection, and each has delivered the slightly less tantalizing reality of steady improvement. Those familiar with previous editions of the book will find some changes. I have, of course, updated demographic figures and policy content, as well as the web-based exercises. In addition, I continue to revise in the hope of making the book more engaging and readable.

This edition reflects major sea changes in U.S. social policy. It has a new chapter on crime and criminal justice, not because the risk of crime is any more widespread than it was when the first edition came out, but because the risk of incarceration bears down so heavily on people of color and vulnerable communities. Another sea change: marriage equality and its ripple effects are celebrated in this edition. The election of Donald Trump is addressed, though its policy implications remain unclear as we go to press. The new edition also reflects changes more accurately characterized as “shifts” in policy and its context. It includes:

- Expanded treatment of inequality (trends, causes, and consequences) (Chapter 5)
- Introduction to “social impact bonding,” a new incarnation of privatization also known as “Pay for Success” (Chapter 4)
- Expanded content on trafficking as a labor issue (Chapter 15)
- Discussion of legalization of marijuana (Chapter 9)
- Consideration of the impact of the Affordable Care Act (Chapter 6)
- Introduction of the concept of “implicit bias” (Introduction to Part II)
- Discussion of the decline in U.S. manufacturing that set the stage for the election of Donald Trump (Chapter 15)

Additional new content is outlined below:

- Chapter 1 introduces new content on social class and upward .
- Chapter 2 introduces social impact bonding and discusses tax preparation for vulnerable taxpayers.
- Chapter 4 includes updates from the 2016 OASDI Trustee Report.
- Chapter 5 examines the global decline in poverty and, consistent with its new title, provides expanded content on inequality.
- Chapter 6 offers new content on the ACA, looking at its impact as well as the controversy over the requirement that insurance cover contraceptive care and the Supreme Court decisions in *Burwell v. Hobby Lobby Stores* and *King v. Burwell*.
- Chapter 7 has a new box on the prevention of home-grown terrorism, as well as an introduction to the 21st Century Cures Act.
- Chapter 8 includes new content on the disproportionate representation of children of color in special education programs.
- Chapter 9 examines the history of criminal and juvenile justice, locating the roots of mass incarceration of Americans in the failed wars on crime and drugs. It considers the ripple effects of this phenomenon and the disproportionate representation of people of color in all components of the U.S. **carceral state**. The chapter also introduces the concept of restorative justice as an alternative paradigm.
- Chapter 11 discusses the *Obergefell v. Hodges* case, which established marriage equality in the United States, and explores policies that affect GLBTQ individuals.
- Chapter 12 includes an expanded discussion of trauma, referencing the Adverse Childhood Experiences (ACE) studies.
- Chapter 14 discusses recent expansions in access to assisted suicide through state legislation and referendums.
- Chapter 15 examines the causes and consequences of the decline in U.S. manufacturing.

### ***About the Educational Policy and Accreditations Standards (EPAS)***

Established in 1952, the Council on Social Work Education is charged with ensuring that social work programs throughout the United States meet certain standards.<sup>1</sup> In 2015, these standards were revised to refine the 2008 focus on competency-based education. Following a consultative process, nine core competencies were identified by the Commission on Accreditation. Each social work program must now demonstrate how it delivers and assesses these core competencies, most of which relate to some aspect of policy analysis or policy practice. Table P.1 inside the front cover summarizes the EPAS competencies and indicates where they are addressed in this text.

## **Instructor Supplements**

The **Online Instructor's Manual** contains information to assist the instructor in designing the course, including assignment rubrics, discussion questions, teaching and learning activities, learning objectives, and additional online resources.

The **Online Test Bank** includes true/false, multiple-choice, and essay questions for each chapter. Each question is tied to learning objectives and EPAS standards.

<sup>1</sup>Although global standards have been approved by the International Association of Schools of Social Work in cooperation with the International Federation of Social Workers (Sewpaul & Jones, 2004), there is no international accrediting authority for the profession: each nation operates a separate process.

**Online PowerPoint Slides** are available to assist instructors with their lecture by providing concept coverage using images, figures, and tables directly from the textbook.

An **Online Curriculum Quick Guide** provides instructors with a table to correlate the core text and available test bank questions with updated EPAS standards.

## MindTap

MindTap®, a digital teaching and learning solution, helps students be more successful and confident in the course — and in their work with clients. MindTap guides students through the course by combining the complete textbook with interactive multimedia, activities, assessments, and learning tools. Readings and activities engage students in learning core concepts, practicing needed skills, reflecting on their attitudes and opinions, and applying what they learn. Videos of client sessions illustrate skills and concepts in action, while case studies ask students to make decisions and think critically about the types of situations they'll encounter on the job. Helper Studio activities put students in the role of the helper, allowing them to build and practice skills in a non-threatening environment by responding via video to a virtual client. Instructors can rearrange and add content to personalize their MindTap course and easily track students' progress with real-time analytics. Finally, MindTap integrates seamlessly with any learning management system.

## An Invitation

Since the first edition of this book was published, I have received phone calls, e-mails, and visits from readers offering suggestions, corrections, and compliments. This input is terrifically valuable each time I update the book. Whether you are an instructor or a student, I would love to hear from you! Let me know what works and (more important, really) what doesn't work in this new edition. Please send your comments to [Amanda.Barusch@socwk.utah.edu](mailto:Amanda.Barusch@socwk.utah.edu), with "foundations text" in the subject line, or write me at the College of Social Work, 395 South 1500 East, University of Utah, Salt Lake City, UT 84112. I look forward to hearing from you.

## Acknowledgments

Each edition of this book benefited from the talents and energies of my students, colleagues, and friends at the University of Utah and the University of Otago, my home away from home in New Zealand.

The sixth edition of this book reflects the creative efforts of many. Janet Tilden served as copy editor. Her careful attention to detail and commitment to excellence is evident in every page. Cengage Content Developer Alexander Hancock kept me going while he lined up images and managed endless details for Cengage. He shepherded the publication process with great élan. Sharib Asrar, Associate Program Manager at Lumina Datamatics, saw the manuscript through production.

People from various walks of life shared their experiences with me to contribute to the education of professional social workers. The stories they told enrich every chapter. Although I can't name them here, I will always be grateful for the time we spent together.

My family is at the center of everything. My husband Larry tolerated my absence and distraction with infinite patience and served as my resident expert on taxation and homelessness. Our children are a constant source of amazement and inspiration. Nathan questions the habits and assumptions of medical practice even as he delivers psychiatric care to those with mental illness. Meanwhile, in her legal practice, Ariana fights every day to protect the rights of vulnerable families and individuals.



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# Policy Analysis: Frameworks and Tools



**Social justice** is central to social work practice. But what is it? This is the focus of Part I, which moves from a broad theoretical consideration of social justice, through the role of government as a vehicle for promoting social justice, to the application of a social justice framework in policy practice. Chapter 1 reviews **modern** and **postmodern** approaches to defining this surprisingly elusive concept. Processes and components of justice are considered, and the link between justice and **human rights** is introduced. The chapter then examines three philosophical conceptions of social justice. Understanding these divergent perspectives will strengthen your analytic skills, enabling you to recognize the assumptions underlying other people's arguments and to frame your own arguments in terms more likely to persuade. Following a brief discussion of inequality, the chapter explores



the role of social work in America's pursuit of social justice and introduces Bertha Capen Reynolds, a 20th-century policy practitioner. Government is an important vehicle for defining and promoting social justice. Chapter 2 examines the philosophical perspectives of political parties and offers a general description of the structure and processes of the U.S. government and an introduction to **privatization**. Chapter 2 provides a brief introduction to the nation's tax system that considers not only the mechanics but also the philosophical assumptions that drive the system. For some readers, this chapter will be a review, but for most it offers new insights and useful reference material. Chapter 3 turns to policy practice skills, focusing on analysis and advocacy strategies. The chapter presents a brief definition of policy practice followed by an extensive discussion of policy analysis that addresses advocacy and empowerment, drawing upon advice and experiences of advocates throughout the country. Chapter 3 closes with the ethical issues and legal considerations that influence policy practice.



## CHAPTER

# 1

# Social Justice and Social Workers

*No, no, we are not satisfied, and we will not be satisfied until justice rolls down like waters and righteousness like a mighty stream.*

MARTIN LUTHER KING JR.

## Learning Objectives

*This chapter will help prepare students to:*

- LO 1-1** Develop a well-informed definition of social justice
- LO 1-2** Understand the processes by which social justice is achieved
- LO 1-3** Identify the components of social justice
- LO 1-4** Discuss the philosophical underpinnings of capitalism and its alternatives
- LO 1-5** Discuss the relevance of social justice for micro and macro practice
- LO 1-6** Describe the role of the social work profession in promoting social justice

## LO 1-1

### Develop a Well-Informed Definition of Social Justice



EP 2  
EP 3a

“Social workers promote social justice,” according to the preamble to the National Association of Social Workers Code of Ethics (NASW, n.d.). This simple statement raises a slew of questions, beginning with definitions. What is social justice? Here, we consider two approaches to this question that stem from contrasting views on the nature of reality: the “modern” and the “postmodern.” The modern view treats justice as an objective, achievable end, or goal. Social workers often take this perspective, setting forth the characteristics of a just society. The postmodern view rejects the idea of an objective standard and holds that justice is socially constructed. This approach shifts our attention to the process by which groups and societies decide what is just.<sup>1</sup>

<sup>1</sup>The terms “social justice,” “social and economic justice,” and “distributive justice” are often used interchangeably. In this book, I use the term “social justice” to be consistent with our professional literature.

## A HUMAN PERSPECTIVE **Melissa Williams**

*On a hot day in June, 150 people, mostly women, met in a hotel to discuss welfare and domestic violence. The program was led by a social worker and attended by state legislators, social workers, welfare administrators, academics, advocates, and religious leaders. In the context of a national debate about welfare reform, this session was designed to raise awareness of the importance of welfare as a resource for women leaving abusive homes. One such woman was Melissa Williams. During the luncheon, she and three other women told their stories.*

Melissa is an attractive young woman with flowing blond hair and a gentle, reflective way of speaking. Clearly intimidated by the size of the group and the lectern in front of her, she spoke haltingly of her experiences with welfare and domestic violence.

Melissa grew up in a working-class family. Her father worked for a mining company and had little interest in children, let alone female children. Her mother was a silent woman, struggling to raise a large family on a miner's salary. Neither parent was physically abusive, but both reminded the children repeatedly that they were "worth less than nothing." For Melissa this emotional abuse intensified during puberty. Miserable in her own family, Melissa saw marriage to her boyfriend, Will, as a way out.

Will was strong, energetic, and determined. He seemed to have the world by the tail and promised the protection and appreciation that Melissa had never enjoyed. At 16, she married him. She laughed, recalling that "everyone thought we had to get married, but I wasn't even pregnant!"

Melissa did get pregnant immediately and left high school. Her husband finished high school and found a "good job"—one with health benefits. They rented an apartment and settled in. Three children were born in rapid succession. Will's job began to feel more and more like a dead end, and he took to hanging out in bars with old high school friends. He'd come home drunk and take out his anger on Melissa. Her medical records show three

visits to the emergency room with facial bruising, lacerations, and a broken arm.

Suffering from a debilitating depression, Melissa was not roused to action until Will attacked one of the children. It was just a slap, but it was enough to send Melissa back to her parents' home, where her depression worsened. Her parents encouraged Melissa to stay away from her husband, but they could not afford to support Melissa and her three children. So, one day, Melissa and her mother took the bus to the welfare office. Melissa was enrolled in the "self-sufficiency program" and awarded emergency housing assistance. Depression was identified as a barrier to employment, and her caseworker arranged for counseling and medication. She also introduced Melissa to a women's advocacy group called JEDI Women (Justice, Economic Dignity, and Independence for Women).

At the time of the conference, Melissa was living independently with her children. She had divorced her husband and did not expect to remarry. Antidepressants and a support group were critical to her ongoing success. Her children had residual health and behavioral problems from witnessing domestic violence.

Deeply moved by Melissa's experience, her audience resolved to ensure that welfare reform in their state would not eliminate a key resource for women leaving abusive relationships. A few weeks later, President Clinton signed an executive order establishing a national hotline for victims of domestic abuse. Today, the state exempts victims of domestic violence from lifetime limits on public assistance.

This commitment to devote public resources to protect abused women represents a public decision about what constitutes social justice in today's society. It reveals a belief that the suffering caused by domestic violence is not a cost that women should bear alone but a social problem that demands a collective response. As we review diverse approaches to defining social justice, consider the implications of each approach for Melissa and women like her.

### DEFINING JUSTICE: A MODERN APPROACH

Lee Ann Bell offers a modern vision of a just society. For her, it is one "in which the distribution of resources is equitable and all members are physically and psychologically safe and secure. We envision a society in which individuals are both self-determining (able to develop their full capacities), and interdependent (capable of interacting democratically with others)" (Bell, 1997, p. 3).

Social work writings often define a just society by the absence of injustice. So, for example, in their description of “emancipatory learning,” Van Soest and Garcia (2003, p. vii) suggest that “[u]ltimately, the goal is to prepare social workers and other helping professionals to transform oppressive and unjust systems into non-oppressive and just alternatives.” Similarly, van Wormer (2004) defined injustice as the result of inequality and oppression, urging social workers to devote themselves to eliminating these conditions through a commitment to restorative justice.

Thoughtful consideration of this issue is found in **David Gil**’s work, *Confronting Injustice and Oppression* (1998). A social work professor at Brandeis University, Gil locates the inspiration for this work in his experiences during the 1938 German occupation of Austria, which left him committed to reversing cycles of injustice and **oppression**. Gil defines justice as the opposite of injustice and oppression and directs social workers’ attention to five key institutions of social life:

1. **Stewardship** (care of natural and human-created resources)
2. Organization of work and production
3. Exchange and distribution of goods, rights, and responsibilities
4. **Governance**
5. Biological reproduction, socialization, and social control

He argues that just societies treat people as equals, with equal rights and responsibilities in each of these five institutions.

Gil explicitly states two assumptions shared by all four of these social work authors: oppression is not inevitable, and a just society is achievable. Indeed, it would be hard to imagine anyone who did not share this belief pursuing a career in social work. Our moments of despair come when events challenge this cherished belief. Like Engels (*The Origin of the Family, Private Property, and the State*, 1884/1972), Gil (1998) argues that perfectly just human societies are possible and that they existed before technological and social change allowed for a stable economic surplus.

Of course, social workers are not the only ones to take a modern perspective on justice. Others, from **Plato** to **Ayn Rand**, have done so as well. Where Rand’s philosophy of **Objectivism** promotes “rational selfishness” as the key to a just society, Plato’s *Republic* offers a utopian vision in which rulers do not own private property, which allows them to concentrate on pursuing the common good. His “best-ordered state” has a communitarian feel: “[W]hen any one of the citizens experiences any good or evil, the whole state will make his case their own” (Edman, 1956, p. 416).

Plato argues that utopian visions need not necessarily be achievable. He rejects the claims of critics charging that his ideal city-state never existed, saying, “We were enquiring into the nature of absolute justice and the perfectly unjust, that we might have an ideal... would a painter be any the worse because, after having delineated with consummate art an ideal of a perfectly beautiful man, he was unable to show that any such man could ever have existed?” (Edman, 1956, p. 430). Justice is a virtue, and a just society is an ideal. The modern approach articulates that ideal and energizes social workers by focusing our efforts on pursuing an inspiring goal.

## DEFINING JUSTICE: A POSTMODERN APPROACH

A postmodern approach to defining justice shifts our focus from the *end* (justice) to the *process* involved as people strive for justice.

The postmodern approach is not limited to contemporary scholars. In ancient Greece, Aristotle wrote, “[F]ire burns both in Greece and in Persia; *but conceptions of justice shift and*

*change*” (Barker, 1962, p. 365, italics added). More than two thousand years later, in 1863, John Stuart Mill made a similar observation:

The entire history of social improvement has been a series of transitions by which one custom or institution after another, from being a supposed primary necessity of social existence, has passed into the rank of a universally stigmatized injustice and tyranny. So it has been with the distinctions of slaves and freemen, nobles and serfs, patricians and plebeians; and so it will be, and in part already is, with the aristocracies of color, race, and sex. (Sterba, 1980, p. 104)

The accelerated pace of change in recent years has brought this observation into focus. For many, the “postmodern” era has brought a rejection of “objective” or “absolute” truth and a dawning recognition that truth may be socially constructed. Thus, conceptions of justice vary from group to group and change throughout the history of societies, families, and individuals. *Absolute* justice is a misnomer. Groups of all sizes strive to achieve an acceptable state of *relative* justice.

The social justice framework in this book relies on a postmodern definition: *Justice is fair allocation of the costs and rewards of group membership.*<sup>2</sup>

Costs of group membership range from the taxes paid by residents in a nation-state to the chores completed by the members of a family. Benefits may be labeled as such (**Social Security** benefits), or they may be more subtle (a sense of personal security). As we will see in Chapter 3, costs and benefits may be experienced immediately (like taxes or welfare checks), or they may accrue over a long period of time (like cancer risk or privilege).

The costs and benefits of group membership are allocated through *social justice processes*. Mundane decisions about who gets to use the family car reflect fundamental beliefs about what is a “just” or “fair” distribution of this benefit. In the United States, the benefits of citizenship include entitlements such as Social Security, tax deductions for home mortgage interest, and Medicaid.

Debates about social justice come up in groups of any size. They arise in families, for example, when new parents struggle to decide how to divide the responsibilities of rearing their baby. They come up in societies as well, as when members of the U.S. Congress debate tax reform proposals. Disputes about how many diapers a father should change or how much tax a corporation should pay are fundamentally social justice debates.

## LO 1-2

## Understand the Processes by Which Social Justice Is Achieved



EP 2a  
EP 5c

*Social justice process* refers to the way a group of any size allocates the costs and benefits of membership. Sometimes, as with the formal development of social policy, these processes are open and public (and laborious!). Other times, *allocation rules* are implicit and assumed, noticed only when they are breached. **Critical theory** and related perspectives in the social sciences have taught us to question these rules even though it may take a social movement to change them.

Good process does not guarantee a fair outcome. Yet wars have been fought and tears shed over unfair processes that are virtually guaranteed to produce an outcome that is not perceived as just. Fair process is necessary but not sufficient for achieving just outcomes.

<sup>2</sup>While doing research for the second edition of this book, I discovered the work of David Miller, a fellow at Oxford College. Miller’s definition of justice is similar: “[T]he subject-matter of justice is the manner in which benefits and burdens are distributed among men whose qualities and relationships can be investigated” (1976, p. 19).

The nature of the decision determines what we consider a fair process, with some types of decisions made by a single authority and others subject to democratic processes. For instance, the president of the United States can accomplish some changes through executive orders, but changes in the Constitution require ratification by Congress and state legislatures.

Groups and cultures differ in what they consider a fair process. Generally, if the allocation rules used by the group are considered fair by members of that group, then the group has achieved a measure of social justice. **Culturally competent practice** calls on social workers to understand and respect the processes by which diverse cultures seek to achieve justice.

Justice in process involves three key concepts: **membership**, **voice**, and the **rule of law**. *Membership* refers to the group's boundaries for distinguishing between "us" and "them." These boundaries often work to exclude what Bruce Jansson (2002) calls "out groups." People who differ from the majority of group members are vulnerable to being labeled "other" and denied membership. As a result, they may be deprived of group benefits and excluded from debate on matters that affect them. For example, a family may question its obligation to provide care to an elderly grandmother on the grounds that she is not "really" a member of the immediate family. A nation may question the provision of cash benefits to immigrants who are not "really" citizens. As we will see in later chapters, most of the history of the United States has been marked by progress toward extension of political and civil rights to those once considered undeserving. Women's suffrage and the civil rights movement are examples of a society redefining the terms of membership.

Western democratic traditions have reached general agreement about what is and is not fair in decision making. These are summarized in three *fair process principles*. The first of these principles, a belief in **political equality**, is central to liberal philosophy and democratic thought. Although some people are privileged by birth and others by wealth, these privileges should not extend to the political sphere. To the extent that they do, this principle is violated.

**Voice** refers to a person's ability to influence decision making within the group. At all levels of social organization, an individual's voice will be determined by the extent to which others hear and attend to that person's concerns. Americans have a strong preference for giving voice to people who are affected by decisions. Thus, our second fair process principle holds that all parties affected by a decision should have a voice in the decision. Violation of this principle was the stated cause of the Boston Tea Party. In elementary school, Americans are taught that wild-eyed colonists dressed up as Indians and threw bags of British tea into Boston Bay, shouting, "No taxation without representation!"

*The rule of law* is a third important component of just process. When formal rules are not universally and consistently applied, we cry "foul." In our country, we expect the law to apply equally to everyone. The notion of equal protection is embedded in the U.S. Constitution. But legislators cannot anticipate every eventuality, and individuals may disagree on what is a "similarly situated" party. This ambiguity keeps judges and lawyers occupied but should not detract from our general belief that no one is above the law.

But if a policy is legal, is it necessarily just? Does **majority rule** make for fair decisions? Like most of us, Aristotle answered "not necessarily." **Aristotle** distinguished between equity and justice, arguing that although they are made of the same stuff, equity is more universal and more natural than justice. For him, **equity** is akin to **natural justice**, which is broader than legal justice. Legal justice establishes rules that, even if perfectly followed, can lead to inequitable results. "The same thing, then, is just and equitable, and while both are good the equitable is superior" (Bostock, 2000, p. 133).

Fair Process  
Principle #1:  
Individuals should  
be treated as  
political equals.

Fair Process  
Principle #2: All  
parties affected by  
a decision should  
have a voice in the  
decision.

Fair Process  
Principle #3: Formal  
rules should apply  
equally to all  
similarly situated  
parties.

## LO 1-3 Identify the Components of Social Justice



EP 5c

Miller (1976, 1999) identifies four components of social justice: desert, need, rights, and equality. The first three can be illustrated using a simple hypothetical situation adapted from Miller (1976). Suppose I hire three children to clean my windows, and I promise to pay them one dollar each for their efforts. Throughout the day I watch them work, and I observe that one child (the first child) is industriously cleaning. This child does more than her fair share of the work and does it very well. The other two dawdle along. One of them (the second child) looks ill. When I ask what's wrong, he tells me that he hasn't eaten for two days because his family has no money for food. The third child has no explanation for her sloughing but looks forward to receiving her dollar at the end of the day.

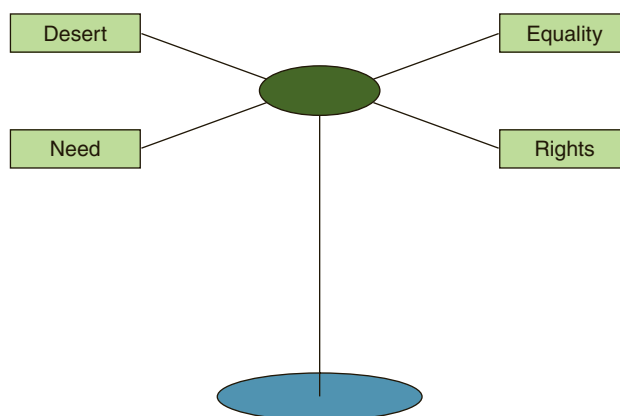
The first child represents *desert*. An outcome is considered just when each person involved gets what he or she deserves. In America, we believe that someone who works hard and does a good job deserves to be rewarded.

The second child represents *need*. Just outcomes take into account each person's need. In our hypothetical example, this child clearly needed money more than the other two.

The third child represents *rights*. From a contractual perspective, a right is an outcome to which we are entitled, based on a prior agreement or contract. Apart from whether she deserves or needs the money, the third child reminds me that under our contractual agreement she has the right to receive a dollar. We will consider rights in greater detail in the next section.

My task, as the all-powerful policy maker in pursuit of justice, is to balance the deserts, needs, and rights of these three children to achieve a just distribution of the reward. This task is illustrated in Figure 1.1. Similarly, analysis of the impact of policy on social justice should consider each of these components, particularly as they relate to vulnerable populations. For example, analysis of a proposal to provide public clinics for people who do not have health insurance might consider first whether these people deserve health care; second, whether they need such care; and finally, whether their rights as citizens are violated if the care is not provided. Equality is the fourth component of justice, and a policy's impact on inequality merits careful consideration. Now let us turn to more detailed consideration of two components of social justice: human rights and equality.

**FIGURE 1.1** Balancing the Components of Social Justice



## HUMAN RIGHTS

Most Americans can recite from the Declaration of Independence, “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.” When Thomas Jefferson penned these words, he was part of a tradition that began in ancient civilizations and was reflected in documents written as early as two thousand years before the birth of Jesus, including the Code of Hammurabi (Mesopotamia), the Cyrus cylinder (Persia), and the edicts of Ashoka (ancient India) (Robertson & Merrills, 1996). Each of these documents treats human rights as universal and inalienable. Thus, rights are possessed by all people, and they cannot be (as my grandmother would say) “begged, borrowed, or sold.”

The horrors of the Holocaust inspired members of the United Nations (U.N.) General Assembly to adopt the Universal Declaration of Human Rights in 1948. Although the declaration is not legally binding, it sets forth principles toward which many nations strive. **President Franklin D. Roosevelt** characterized it as an “international Magna Carta of all men everywhere” (in his address to the United Nations, December 9, 1948, Paris), but other U.S. politicians have been less enthusiastic. For instance, **Jeane Kirkpatrick**, U.S. Ambassador to the United Nations during the Reagan administration, reportedly described the declaration as “a letter to Santa Claus” (WordIQ.com, n.d.).

Nonetheless, the declaration was promptly ratified by the United States Senate in a process consistent with constitutional provisions governing international treaties. Although the president of the United States has authority to sign U.N. declarations, conventions, and treaties, ratification requires Senate approval. As a result, there can be a lengthy gap between the president’s signature and Senate ratification.

Notably, the United States and Somalia are the only nations that have not ratified the Convention on the Rights of the Child, and we join Sudan, Somalia, and Iran in refusing to ratify the Convention on the Elimination of All Forms of Discrimination Against Women. President Obama signed the Convention on the Rights of Persons with Disabilities in 2009, but the Senate has so far been unable to achieve the two-thirds majority needed to ratify the treaty. The status of the United States with respect to other U.N. conventions affecting human rights (as of this writing) is summarized in Table 1.1.

Civil and political rights enjoyed by Americans are spelled out in the first ten amendments to the Constitution—the Bill of Rights—and in legislation ranging from the Civil Rights Act of 1960 to the Americans with Disabilities Act of 1990. While there is a strong tradition of protection for civil rights in the United States, this nation does not recognize economic, social, and cultural rights, or solidarity rights, some of which are identified in the Universal Declaration of Human Rights (Vasak & Alston, 1982).

### *Human Rights Violations and Restorative Justice*

The world has seen a litany of **human rights violations** by governments. Here we will briefly consider South Africa’s system of **apartheid** and the ongoing efforts at healing that followed.

The land we now know as South Africa has long been home to diverse ethnic groups. Its colonial history began in the 1400s with the arrival of Portuguese explorers, but most people date the period to the arrival of Dutch and British forces in the 17th century. These European powers fought over territory during the Boer Wars of the end of the 19th century before settling into an uneasy power-sharing arrangement. The Union of South Africa was formed in 1910, and the Afrikaner National Party rose to ascendency in the 1940s. Apartheid laws date to 1948, when the Population Registration Act required that all