

## I. Contextualizing Justice in *Billy Budd, the Sailor*

Herman Melville's *Billy Budd, the Sailor* (1891) is the story of a young sailor Billy Budd with pleasing personality and attitudes. He is amicable, sincere and honest; however, these very features earn him an enemy. He is accused of mutiny by one of his seniors John Claggart, for he envies his popularity. Then, in the cruel turn of fate, Billy is summoned by the Captain of the Ship Edward Fairfax Vere to explain his role in the alleged mutiny. In an instant feat of anger, Billy hits Claggart, resulting in the death of the latter. A fastidious trial is set by Captain Vere and in accordance to the existing laws of the land Billy is hanged to death.

The notion of justice pronounced by Captain Vere on Billy is the central theme of the fiction. When for an individual killing is an act against social values and norms, it is legitimate, if conducted within the criteria set by law and legal notions. So, the idea of justice is often individualistic and monopoly in nature. To explain this condition of justice done of Billy, the present research aims to analyze the theme of 'justice' based on the idea of John Stuart Mill's idea in *Utilitarianism* that "larger happiness of the maximum number of people" is at the centre of both the fictions (63).

It is often noticed that the notion of justice is not applicable to all class and status of people in the same magnitude. The imposition of justice, but differs from person to person based on influence, power and motivation. In everything which men are accustomed to characterize as just or unjust, a common attribute or collection of attributes is always present. We may judge whether this particular attribute or combination of attributes would be capable of declaring the idea of fairness and injustice. As such, justice is often a sentiment of that peculiar character and intensity by virtue of the general laws of our emotional constitution, or

whether the sentiment is inexplicable, and requires to be regarded as a special provision of nature. If we find the former to be the case in resolving the idea of justice, then we humans might have resolved the problems underlying fair justice. However, this is not the case, as is witnessed in the case of Budd, the sailor.

The sailor lives with pride and dignity. He is a character of almost flawless behavior. Frank J. Dostoyevsky in *The Seeds of Revolt* opines of the ideology of need base idea, as:

Utility or the existence of pleasure and the absence of pain is both the basis of everything that people desire, and as the foundation of morality. However, utilitarianism does not say that it is moral for people simply to pursue what makes them personally happy. Rather, morality is dictated by the greatest happiness principle; moral action is that which increases the total amount of utility in the world. (98)

The self imposed ideology is largely a notion of thinking based on rational and fair distribution of resources. So, in the form of murder of this mean landlady and Billy, both are justified from social and legal philosophy.

There are also critics who opine that *Billy Budd* is a novel that ought to be read from historical record of development of legal theories rather than for literary purpose. The notion of justice in the novels is found in the form of murder based on utilitarian purpose. In the words of Melville's biographer, Leon Howard:

The inside story and the historical record were at odds in their implications concerning the puzzling actions of Lt. Gansevoort and of the Captain, and Melville's interest was diverted to the problem of reconciling conflicting implications. How could a man in a judicial position be held morally free

from guilt while condemning to death another human being who was known to be morally innocent of the wrongdoing? (97)

The idea that initially developed as a ballad and had they been expanded into a prose work introducing John Claggart and the conflict between an angelic foretop man and a demonic master-at-arms finally centered on Captain Vere and the nature of his responsibility in a world where the conflict of the “inside narrative” became a frightening metaphor of human existence in the world at large. It is on the character and function of Captain Vere, consequently, that critical attention has necessarily concentrated.

There are critics who find similarities in the technique of Russian writer Fyodor Dostoevsky’s of presenting human struggle similar to Melville. They see these series of similarities in the most fascinating manner. In regards, Robert Louis Jackson opines:

Renowned as one of the most important writers in world history, 19th-century Russian author Fyodor Dostoyevsky wrote psychologically intense novels which probed the motivations and moral justifications for his characters’ actions. Dostoyevsky commonly addressed themes such as the struggle between good and evil within the human soul and the idea of salvation through suffering. (124)

The theme of struggle between ‘good’ and ‘bad’ is one of the prominent issues in the reception of the doctrine that utility or happiness is the criterion of right and wrong, has been drawn from the idea of justice. The powerful sentiment, and apparently clear perception, which that word recalls with a rapidity and certainty resembling an instinct, have seemed to the majority of thinkers to point to an inherent quality in things; to show that the just must have an existence in Nature as something absolute, generically distinct from every variety of

the Expedient, and, in idea, opposed to it, though (as is commonly acknowledged) never, in the long run, disjoined from it in fact.

For the purpose, imposition of justice on *Billy Budd, the Sailor* it is practically important to consider from the notion of justice and injustice. It becomes more essential to examine, as people are in general willing enough to allow, that objectively the dictates of justice coincide with a part of the field of general expediency; but as the subjective mental feeling of justice is different from that which commonly attaches to simple expediency, and, except in the extreme cases of the latter, is far more imperative in its demands, people find it difficult to see, in justice, only a particular kind or branch of general utility, and think that its superior binding force requires a totally different origin.

To overlook at the idea of justice, we can bring in a query. Is it necessary to attempt to ascertain what is the distinguishing character of justice, or of injustice: what is the quality, or whether there is any quality, attributed in common to all modes of conduct designated as unjust for justice? Like many other moral attributes, is best defined by its opposite, and distinguishing them from such modes of conduct as are disapproved, but without having that particular epithet of disapprobation applied to them.

To find the common attributes of a variety of objects in regards to determining equal treatment in the eye of law, it is necessary to begin by surveying the objects themselves in concern. Human affairs are judged on the basis of various modes of action, and arrangements are classified by universal or widely spread opinion: 'just or unjust.' The things well known to excite the sentiments associated with those names are of a very multifarious character. I shall pass them rapidly in review, without studying any particular arrangement.

In the first place, it is mostly considered unjust to deprive any one of his personal liberty, his property, or any other thing which belongs to him by law. Here, therefore, is one instance of the application of the terms just and unjust in a perfectly definite sense, namely, that it is just to respect, unjust to violate, the legal rights of any one. But this judgment admits of several exceptions, arising from the other forms in which the notions of justice and injustice present themselves. For example, the person who suffers the deprivation may have forfeited the rights which he is so deprived of: a case to which we shall return presently.

The legal right of which he is deprived, may be rights which ought not to have belonged to him; in other words, the law which confers on him these rights, may be a bad law. When it is so, or when which is the same thing for our purpose it is supposed to be so, opinions will differ as to the justice or injustice of infringing it. Some maintain that no law, however bad, ought to be disobeyed by an individual citizen; that his opposition to it, if shown at all, should only be shown in endeavoring to get it altered by competent authority. This opinion that condemns many of the most illustrious benefactors of mankind often protects pernicious institutions against social and individual evils are merely an illusion.

In fact, justice is a mechanism of the state which it uses as weapon at times to restrict any chance of succeeding against them and their system. Justice is defended, by those who hold it, on grounds of expediency; principally on that of the importance, to the common interest of mankind, of maintaining inviolate the sentiment of submission to law. Contrarily the idea of justice that any law, judged to be bad, may blamelessly be disobeyed, even though it be not judged to be unjust, but only inexpedient. However, there are individuals who would confine the licence of disobedience to the case of unjust laws for personal use and benefit.

Some say, that all laws which are inexpedient are unjust; since every law imposes some restriction on the natural liberty of mankind. Any form of restriction is an injustice, unless legitimated by tending to their good. But, then there are no ground to claim that something justified to a party under one situation may be applicable to the other on the some other grounds. In regards, Mill opines:

Among these diversities of opinion, it seems to be universally admitted that there may be unjust laws, and that law, consequently, is not the ultimate criterion of justice, but may give to one person a benefit, or impose on another an evil, which justice condemns. When, however, a law is thought to be unjust, it seems always to be regarded as being so in the same way in which a breach of law is unjust, namely, by infringing somebody's right. (62)

As such, there cannot be a case, where legal right, receives a different appellation, and is called a moral right.

Therefore, that a second case of injustice consists in taking or withholding from any person that to which he has a moral right. Thirdly, it is universally considered just that each person should obtain that (whether good or evil) which he deserves; and unjust that he should obtain a good, or be made to undergo an evil, which he does not deserve. This is, perhaps, the clearest and most emphatic form in which the idea of justice is conceived by the general mind. As it involves the notion of desert, the question arises, what constitutes desert? Speaking in a general way, a person is understood to deserve good if he does right, evil if he does wrong; and in a more particular sense, to deserve good from those to whom he does or has done good, and evil from those to whom he does or has done evil. The precept of

returning good for evil has never been regarded as a case of the fulfilment of justice, but as one in which the claims of justice are waived, in obedience to other considerations.

It is confessedly unjust to break faith with any one: to violate an engagement, either express or implied, or disappoint expectations raised by our conduct, at least if we have raised those expectations knowingly and voluntarily. Like the other obligations of justice already spoken of, this one is not regarded as absolute, but as capable of being overruled by a stronger obligation of justice on the other side; or by such conduct on the part of the person concerned as is deemed to absolve us from our obligation to him, and to constitute a forfeiture of the benefit which he has been led to expect.

Universal admission, inconsistent with justice to be partial; to show favour or preference to one person over another, in matters to which favour and preference do not properly apply in all cases. Impartiality, however, does not seem to be regarded as a duty in itself, but rather as instrumental to some other duty; for it is admitted that favour and preference are not always censurable, and indeed the cases in which they are condemned are rather the exception than the rule.

To take for, a person would be more likely to be blamed than applauded for giving his family or friends no superiority in good offices over strangers, when he could do so without violating any other duty; and no one thinks it unjust to seek one person in preference to another as a friend, connection, or companion. Impartiality where rights are concerned is of course obligatory, but this is involved in the more general obligation of giving to everyone his right. In regards, Mill gives an example:

A tribunal, for example, must be impartial, because it is bound to award, without regard to any other consideration, a disputed object to the one of two

parties who has the right to it. There are other cases in which impartiality means, being solely influenced by desert; as with those who, in the capacity of judges, preceptors, or parents, administer reward and punishment as such. (23)

There are cases, again, in which it means, being solely influenced by consideration for the public interest; as in making a selection among candidates for a government employment. Impartiality, in short, as an obligation of justice, may be said to mean, being exclusively influenced by the considerations which it is supposed ought to influence the particular case in hand; and resisting the solicitation of any motives which prompt to conduct different from what those considerations would dictate.

Nearly allied to the idea of impartiality is that of equality; which often enters as component part both into the conception of justice and into the practice of it, and, in the eyes of many persons, constitutes its essence. But in this, still more than in any other case, the notion of justice varies in different persons, and always conforms in its variations to their notion of utility. Each person maintains that equality is the dictate of justice, except where he thinks that expediency requires inequality. The justice of giving equal protection to the rights of all is maintained by those who support the most outrageous inequality in the rights themselves.

To take for, even in slave countries it is theoretically admitted that the rights of the slave, such as they are, ought to be as sacred as those of the master; and that a tribunal which fails to enforce them with equal strictness is wanting in justice; while, at the same time, institutions which leave to the slave scarcely any rights to enforce, are not deemed unjust, because they are not deemed inexpedient.



Similarly, those who think that utility requires distinctions of rank, do not consider it unjust that riches and social privileges should be unequally dispensed; but those who think this inequality inexpedient, think it unjust also. Mill forwards:

Whoever thinks that government is necessary sees no injustice in as much inequality as is constituted by giving to the magistrate powers not granted to other people. Even among those who hold levelling doctrines, there are as many questions of justice as there are differences of opinion about expediency. Some Communists consider it unjust that the produce of the labour of the community should be shared on any other principle than that of exact equality. (64)

And, for few, it just that those should receive most whose wants are greatest; while others hold that those who work harder, or who produce more, or whose services are more valuable to the community, may justly claim a larger quota in the division of the produce. And the sense of natural justice may be plausibly appealed to in behalf of every one of these opinions.

Among so many diverse applications of the term justice, which yet is not regarded as ambiguous, it is a matter of some difficulty to seize the mental link which holds them together, and on which the moral sentiment adhering to the term essentially depends. Perhaps, in this embarrassment, some help may be derived from the history of the word, as indicated by its etymology.

In most, if not in all, languages, the etymology of the word which corresponds to Just, points distinctly to an origin connected with the ordinances of law. Justum is a form of jussum, which means 'that has been ordered.' Dikaion comes directly from dike, a suit at law. Recht, from which came right and righteous, is synonymous with law. The courts of

justice, the administration of justice, are the courts and the administration of law. La justice, in French, is the established term for judicature. I am not committing the fallacy imputed with some show of truth to Horne Tooke, of assuming that a word must still continue to mean what it originally meant. Etymology is slight evidence of what the idea now signified is, but the very best evidence of how it sprang up.

There can, I think, be no doubt that the idee mere, the primitive element, in the formation of the notion of justice, was conformity to law. It constituted the entire idea among the Hebrews, up to the birth of Christianity; as might be expected in the case of a people whose laws attempted to embrace all subjects on which precepts were required, and who believed those laws to be a direct emanation from the Supreme Being. But other nations, and in particular the Greeks and Romans, who knew that their laws had been made originally, and still continued to be made, by men, were not afraid to admit that those men might make bad laws; might do, by law, the same things, and from the same motives, which if done by individuals without the sanction of law, would be called unjust. And hence the sentiment of injustice came to be attached, not to all violations of law, but only to violations of such laws as ought to exist, including such as ought to exist, but do not; and to laws themselves, if supposed to be contrary to what ought to be law. In this manner the idea of law and of its injunctions was still predominant in the notion of justice, even when the laws actually in force ceased to be accepted as the standard of it.

It is true that mankind consider the idea of justice and its obligations as applicable to many things which neither are, nor is it desired that they should be, regulated by law. Nobody desires that laws should interfere with the whole detail of private life; yet every one allows that in all daily conduct a person may and does show himself to be either just or

unjust. But even here, the idea of the breach of what ought to be law, still lingers in a modified shape. It would always give us pleasure, and rings in with our feelings of fitness, that acts which we deem unjust should be punished, though we do not always think it expedient that this should be done by the tribunals. We forego that gratification on account of incidental inconveniences.

The idea of so-called fairness and just conduct enforced and injustice repressed, even in the minutest details should be taken critically. If we were not, with reason, afraid of trusting the magistrate with so unlimited an amount of power over individuals, then there is ignorance. Similarly, if we think that a person is bound in justice to do a thing, it is an ordinary form of language to say, that he ought to be compelled to do it. We should be gratified to see the obligation enforced by anybody who had the power. If we see that its enforcement by law would be inexpedient, we lament the impossibility, we consider the impunity given to injustice as an evil, and strive to make amends for it by bringing a strong expression of our own and the public disapprobation to bear upon the offender. Thus, the idea of legal constraint is still the generating idea of the notion of justice, though undergoing several transformations before that notion, as it exists in an advanced state of society, becomes complete.

The above is a true account, as far as it goes, of the origin and progressive growth of the idea of justice. But we must observe, that it contains, as yet, nothing to distinguish that obligation from moral obligation in general. For the truth is that the idea of penal sanction, which is the essence of law, enters not only into the conception of injustice, but into that of any kind of wrong. We do not call anything wrong, unless we mean to imply that a person

ought to be punished in some way or other for doing it; if not by law, by the opinion of his fellow-creatures; if not by opinion, by the reproaches of his own conscience.

This seems the real turning point of the distinction between morality and simple expediency. It is a part of the notion of duty in every one of its forms, that a person may rightfully be compelled to fulfil it. Duty is a thing which may be exacted from a person, as one exacts a debt. Unless we think that it may be exacted from him, we do not call it his duty. Reasons of prudence, or the interest of other people, may militate against actually exacting it; but the person himself, it is clearly understood, would not be entitled to complain. There are other things, on the contrary, which we wish that people should do, which we like or admire them for doing, perhaps dislike or despise them for not doing, but yet admit that they are not bound to do; it is not a case of moral obligation; we do not blame them, that is, we do not think that they are proper objects of punishment.

We come by these ideas of deserving and not deserving punishment, will appear, perhaps, in the sequel. There is no doubt that this distinction lies at the bottom of the notions of right and wrong; that we call any conduct wrong, or employ, instead, some other term of dislike or disparagement, according as we think that the person ought, or ought not, to be punished for it; and we say, it would be right, to do so and so, or merely that it would be desirable or laudable, according as we would wish to see the person whom it concerns, compelled, or only persuaded and exhorted, to act in that manner.

This, therefore, being the characteristic difference which marks off, not justice, but morality in general, from the remaining provinces of Expediency and Worthiness; the character is still to be sought which distinguishes justice from other branches of morality. Now it is known that ethical writers divide moral duties into two classes, denoted by the ill-

chosen expressions, duties of perfect and of imperfect obligation; the latter being those in which, though the act is obligatory, the particular occasions of performing it are left to our choice, as in the case of charity or beneficence, which we are indeed bound to practise, but not towards any definite person, nor at any prescribed time. In the more precise language of philosophic jurists, duties of perfect obligation are those duties in virtue of which a correlative right resides in some person or persons; duties of imperfect obligation are those moral obligations which do not give birth to any right.

It is often found that this distinction exactly coincides with that which exists between justice and the other obligations of morality. In our survey of the various popular acceptations of justice, the term appeared generally to involve the idea of a personal right- a claim on the part of one or more individuals, like that which the law gives when it confers a proprietary or other legal right. In words of Donald Yannella on *New Essays on Billy Budd* whether:

Injustice consists in depriving a person of a possession, or in breaking faith with him, or in treating him worse than he deserves, or worse than other people who have no greater claims, in each case the supposition implies two things- a wrong done, and some assignable person who is wronged. Injustice may also be done by treating a person better than others; but the wrong in this case is to his competitors, who are also assignable persons. (32)

It seems to me that this feature in the case- a right in some person, correlative to the moral obligation- constitutes the specific difference between justice, and generosity or beneficence. Justice implies something which it is not only right to do, and wrong not to do, but which some individual person can claim from us as his moral right.

In consideration to all these ideas discussed above, the present research makes an attempt to analyze the notion of justice from a critical point of view. As such, the first chapter is 'Contextualizing Justice in *Billy Budd, the Sailor*' to bring the ideas of justice and present several literary reviews on the text. Similarly, the second chapter 'The Tragedy of Justice in *Billy Budd, the Sailor*' makes a thorough criticism on various events presented in the novel to analyze the tragic notion of justice. This chapter deals on contextual analysis to bring in the idea that justice is not same and equal all the time and place. Finally, the last chapter, 'Fall of Justice in *Billy Budd, the Sailor*' depicts the downfall of idea of legal notion of justice.

## II. The Tragedy of Justice in *Billy Budd, the Sailor*

Contrary to the belief of most people, the idea of justice is not about right or wrong, but imposition by the state's policies. It is about holding a notion remaining at a post. Captain Vere as the head of the British ship in the Pacific Ocean is the ultimate pronouncer of verdict in every case related to his crew members. As such, the notion of justice in the water is what Captain Vere assumes to be. As such, it is unlikely to say that justice is fairness, but in turn, is an act determined by the interest of an individual based on circumstantial situation.

The position of Billy in the Conflict in *Billy Budd* focuses on the distinction between the laws of society and the laws of nature. According to Charles Reich, "Human law says that men are the sum total of their actions, and no more" (Charles Reich 143). This is used by Reich uses to ascertain that Billy is innocent in what he is, not what he does. His action of punching his fellow cannot be justifiable because it resulted in immediate dying of Claggart. The point of the novel is therefore not to analyze the good and evil in Billy or Claggart, but to put the reader in the position of Captain Vere, who must interpret the laws of both man and nature.

In the terms of notion, Vere's decision to hang Billy is justifiable as per justice is concerned. In defense of this he alludes to a famous English court case, in which three men were accused of murder. However, the circumstances which led them to murder were beyond their control; they had been stranded at sea and forced to kill and eat their fourth companion, who had fallen ill and was about to die anyway. The Judge, Lord Coleridge, found them guilty because "law cannot follow nature's principle of self-preservation" (Reich 129). In other words, necessity is not a justification for killing, even when this necessity is beyond human control.

The character of Captain Vere is one such representative character that depicts the ways of life from a legal perspective. He is fashioned to dictate ideas and vision in the name of justice, so much so that he makes a fast court to pronounce verdict on Budd. As such, Captain Vere is fascinatingly in contrast with Budd. There is a marked difference between the victimized Billy and the judge, Vere. According to Prof. Stephen A. Simon:

Where Budd knows nothing of his parents or origins, Vere comes from nobility. Where Budd is illiterate, Vere is a contemplative intellectual who loves reading about history and philosophy. Where Budd seems less an actual individual than a symbol of primitive humanity, Vere is the embodiment of political order and strict application of enacted law. He brooks no delay in trying and executing Budd. (43)

These striking differences make an interesting turn of event in the novel. The idea of primitive humanity indicates Billy but Vere is pure politics. He is a man of 'law' and takes action in a swift manner. His idea of justice is raw and hasty arousing suspicion on the entire notion of legal hearing. Nevertheless, there is no denial that there is a strong ground for the verdict of murder sentence pronounced on Billy.

Since Billy is unable to defend himself verbally, he "responds to pure nature, and the dictates of necessity" by lashing out at Claggart. Vere is correct in hanging Billy, and that it is society, not Vere, who should be criticized for this judgment. It is not to be forgotten that Vere is forced to reject the urgings of his own heart and his values to comply with the binding laws of man. For, Vere is complying with the essence of general rules set by society in the name of maintain order and justice.



Captain Vere had no choice but to convict Billy because it is the essence set by law in the name of justice and order. Justice is fairness that is above morality. As such, captain Vere as the leader of a ship under pressure of war and the constant threat of mutiny had to act swiftly. Also, as captain, Vere had the responsibility of making sure the laws were strictly enforced, including the Mutiny Act. Although Vere knew in his heart Billy was innocent, Billy's actions had to be punished. The fact is morality seems to be good to listen whereas it is something that cannot be exercised at the risk of justice and law of the land.

For Vere to have acquitted Billy would mean that he had placed the divine law of nature above the laws he was bound to enforce as captain of a British ship. Although this would have been morally right, who is to say where to draw the line? This rhetorical question is what Melville wants his readers to think about. Melville could have easily written in the plot that Vere went along with the captain's suggestion to call witnesses.

Ideas of justice are confined to the principle of betterment of larger public. This is a practical philosophy that takes utility at the center of all the humanly events. As such, society and nation are bound under larger utility for the maximum number of people is guaranteed as justice by the state. We can also say that a moral right to our generosity or beneficence, because we are not morally bound to practise those virtues towards any given individual. And it will be found with respect to this, as to every correct definition, that the instances which seem to conflict with it are those which most confirm it. For if a moralist attempts, as some have done, to make out that mankind generally, though not any given individual, have a right to all the good we can do them, he at once, by that thesis, includes generosity and beneficence within the category of justice. He is obliged to say, that our utmost exertions are due to our fellow creatures, thus assimilating them to a debt; or that

nothing less can be a sufficient return for what society does for us, thus classing the case as one of gratitude; both of which are acknowledged cases of justice.

There is right, the case is one of justice, and not of the virtue of beneficence: and whoever does not place the distinction between justice and morality in general, where we have now placed it, will be found to make no distinction between them at all, but to merge all morality in justice. Having thus endeavoured to determine the distinctive elements which enter into the composition of the idea of justice, we are ready to enter on the inquiry, whether the feeling, which accompanies the idea, is attached to it by a special dispensation of nature, or whether it could have grown up, by any known laws, out of the idea itself; and in particular, whether it can have originated in considerations of general expediency.

To conceive that the sentiment itself does not arise from anything which would commonly, or correctly, be termed an idea of expediency; but that though the sentiment does not, whatever is moral in it does. We have seen that the two essential ingredients in the sentiment of justice are, the desire to punish a person who has done harm, and the knowledge or belief that there is some definite individual or individuals to whom harm has been done.

Captain Vere has a desire to punish a person, often coming from his mentality of superior complexity. An individual is often guided with a spontaneous outgrowth of sentiments to punish the guilty party or person. This desire is the highest degree natural, and which either are or resemble instincts; the impulse of self-defence, and the feeling of sympathy. It is natural to resent, and to repel or retaliate, any harm done or attempted against ourselves, or against those with whom we sympathise. The act of Billy punching to Claggart is very natural, as he is guided by natural instinct a human has to be confine within the limits of social and moral standards.

The origin of this sentiment it is not necessary here to discuss. Whether it be an instinct or a result of intelligence, it is, we know, common to all animal nature; for every animal tries to hurt those who have hurt, or who it thinks are about to hurt, itself or its young. Human beings, on this point, only differ from other animals in two particulars. In being capable of sympathising, not solely with their offspring, or, like some of the more noble animals, with some superior animal who is kind to them, but with all human, and even with all sentient, beings.

It is normal to have a more developed intelligence, which gives a wider range to the whole of their sentiments, whether self-regarding or sympathetic. By virtue of his superior intelligence, even apart from his superior range of sympathy, a human being is capable of apprehending a community of interest between himself and the human society.

An individual forms a part, such that any conduct which threatens the security of the society generally, is threatening to his own, and calls forth his instinct, if instinct it be of self-defence. The same superiority of intelligence joined to the power of sympathising with human beings generally, enables him to attach himself to the collective idea of his tribe, his country, or mankind, in such a manner that any act hurtful to them, raises his instinct of sympathy, and urges him to resistance.

The verdict of death penalty imposed on Billy is based on 'justice' at the larger notion. It cannot be unfair to punish one for his reckless attitude resulting in the death of one of his seniors. However, when one has to look to its microscopic aspect; Billy rightfully owns sympathy. He is accused of being unfairly involved in the act of "mutiny" by his immediate senior John Claggart (37).

Meanwhile, Claggart has been unfair and mean in claiming that Billy is involved in evoking sense of rebellion amongst his crewmen. So, in the course of interrogation, Billy is raged and in 'spontaneous flow of unbearable emotion' hits Claggart, resulting in his sudden demise. A universal proverb amply applies 'a man without ego and snake sans poison' are of no importance. So, when Billy is hanged to death, it is natural to think, if the level of punishment is justified.

However, again the issue in concern is, 'whether happiness can be attained?' Can the level of happiness be determined and be applied to people of all class, religion, sex, caste and socio-economic status? If not, can happiness of the larger number of people be taken as the means of moral parameters? If not, then what is the alternative to the idea of happiness? Here, comes the idea of legislation which in modern times is taken as the source of both justice and morality. As such, it is often witnessed that statutes and Acts are imperative and imposing, in contrary to moral values which are arbitrary and individual.

The idea of 'sovereign making laws' is the founding stone for leading a society both morally and legally in modern days. As the features of societies are so dynamic and intriguing that mere moral concept of natural law is insufficient to govern a society. For if no happiness is to be had at all by human beings, the attainment of it cannot be the end of morality, or of any rational conduct. Though, even in that case, something might still be said for the utilitarian theory; since utility includes not solely the pursuit of happiness, but the prevention or mitigation of unhappiness; and if the former aim be chimerical.

Nevertheless, justice is not merely utility and neither, it is adheres to utility, once it is pronounced. So, justice necessarily does not guarantee fair and equal treatment, like the verdict on Billy, the young sailor. The punishment imposed on Billy cannot be termed fair

treatment based on ‘utilitarian’ philosophy and it is, anything, but moral. The act of Billy striking to John Claggart on instant fury is merely a momentary outcome of instant fury which was sparked by Claggart accusing him of as a “cause of mutiny” (27). It is natural for humans to react when accused in most unfair manner, and Budd is also a normal human being.

As such, justice becomes a means to impose certain decisions which might be morally and socially unfair on the recipient. The entire idea of ‘justness’ is associated with the idea of acceptability. Justice, as such, does not become a mean for the largest happiness but ‘acceptance’ by the largest number largely due to the fear of coercion and power imposed on him/her. Mill opines:

Justice, thus, becomes crucial condition for the acceptance of the utilities.

Justice is not merely about the happiness of largest number of people but also acceptance of the largest number of people. So, an individual’s personal happiness is at stake for the sake of betterment of larger number of people.

(57)

As such, justice is about imposition of a certain decision on an individual that might be undesirable to him/her. But it is not merely a decision imposed on an individual based on a single case but on popular belief and practices. On contrary, morality is often individual and confined in nature.

Mill has a very critical approach on the idea of justice. He is of the opinion that justice is coercive because it is natural for human to retaliate against harm done on them. For, Budd is the victim of circumstantial situation leading him to be the scapegoat in the eye of law. However, in both cases, they turn out to be the victim. So, the idea of morality and

justice are neither moral nor fair. For some critics, the idea of morality and justice has nothing to do with 'welfare' and 'acceptability' but is a means of satiate a common goal set by the society. Mill provides a personal approach to this:

Now it appears to me, that the desire to punish a person who has done harm to some individual is a spontaneous outgrowth from two sentiments, both in the highest degree natural, and which either are or resemble instincts; the impulse of self-defense, and the feeling of sympathy. It is natural to resent, and to repel or retaliate, any harm done or attempted against ourselves, or against those with whom we sympathize. The origin of this sentiment is not necessary here to discuss. (58)

The idea of punishment has nothing to do with morality or justice but is a desire to do so. It depends on the prevalent sentiment of an individual and differs from person to person. The idea of retaliation is common to be a human being. Some are sentimental to social injustice and others are imposed atrocities by some individuals who restore to unfair means to address their demands come true.

The idea of utility perhaps may be doubtful, under the aforementioned condition. Whether human beings are taught to consider happiness as the end of life, would be satisfied with such a moderate share of it. But great numbers of mankind have been satisfied with much less. The main constituents of a satisfied life appear to be two, either of which by itself is often found sufficient for the purpose: tranquility, and excitement. With much tranquility, many find that they can be content with very little pleasure: with much excitement, many can reconcile themselves to a considerable quantity of pain. There is assuredly no inherent impossibility in enabling even the mass of mankind to unite both;

since the two are so far from being incompatible that they are in natural alliance, the prolongation of either being a preparation for, and exciting a wish for, the other.

It is only those in whom indolence amounts to a vice, that do not desire excitement after an interval of repose: it is only those in whom the need of excitement is a disease, that feel the tranquility which follows excitement dull and insipid, instead of pleasurable in direct proportion to the excitement which preceded it. When people who are tolerably fortunate in their outward lot do not find in life sufficient enjoyment to make it valuable to them, the cause generally is, caring for nobody but themselves. To those who have neither public nor private affections, the excitements of life are much curtailed, and in any case dwindle in value as the time approaches when all selfish interests must be terminated by death: while those who leave after them objects of personal affection, and especially those who have also cultivated a fellow-feeling with the collective interests of mankind, retain as lively an interest in life on the eve of death as in the vigor of youth and health.

Next to selfishness, the principal cause which makes life unsatisfactory is want of mental cultivation. A cultivated mind – I do not mean that of a philosopher, but any mind to which the fountains of knowledge have been opened, and which has been taught, in any tolerable degree, to exercise its faculties- finds sources of inexhaustible interest in all that surrounds it; in the objects of nature, the achievements of art, the imaginations of poetry, the incidents of history, the ways of mankind, past and present, and their prospects in the future. It is possible, indeed, to become indifferent to all this and that too without having exhausted a thousandth part of it; but only when one has had from the beginning no moral or human interest in these things, and has sought in them only the gratification of curiosity.

Now there is absolutely no reason in the nature of things why an amount of mental culture sufficient to give an intelligent interest in these objects of contemplation, should not be the inheritance of every one born in a civilized country. As little is there an inherent necessity that any human being should be a selfish egotist, devoid of every feeling or care but those which centre in his own miserable individuality. Something far superior to this is sufficiently common even now, to give ample earnest of what the human species may be made.

The idea of genuine private affections and a sincere interest in the public good are possible, though in unequal degrees, to every rightly brought up human being. In a world in which there is so much to interest, so much to enjoy, and so much also to correct and improve, everyone who has this moderate amount of moral and intellectual requisites is capable of an existence which may be called enviable; and unless such a person, through bad laws, or subjection to the will of others, is denied the liberty to use the sources of happiness within his reach, he will not fail to find this enviable existence, if he escape the positive evils of life, the great sources of physical and mental suffering- such as indigence, disease, and the unkindness, worthlessness, or premature loss of objects of affection. The main stress of the problem lies, therefore, in the contest with these calamities, from which it is a rare good fortune entirely to escape; which, as things now are, cannot be obviated, and often cannot be in any material degree mitigated. Yet no one whose opinion deserves a moment's consideration can doubt that most of the great positive evils of the world are in themselves removable, and will, if human affairs continue to improve, be in the end reduced within narrow limits.



Budd posse's high moral affiliation and composure displayed in his behavior.

Melville introduces Budd, as:

The moral nature was seldom out of keeping with the physical make. Indeed, except as tones by the former, the comeliness and power, always attractive in masculine conjunction, hardly could have drawn the sort of homage the Handsome Sailor in some examples received from his less gifted associates. Such a cynosure, at least in aspect and something such too in nature, though with important variations made apparent as the story proceeds. (286)

Budd is always the happier for his nobleness, there can be no doubt that it makes other people happier, and that the world in general is immensely a gainer by it. The idea of representation of such a noble character is to depict the existent inequality in the society. People are often made to suffer for being inferior; however, Budd is someone who does not discriminate people on the basis they are inferior or superior.

As such, Budd is someone who is enlightened of the worldly affairs and treats his fellow men, all equal. Therefore, utilitarianism could only attain its end by "the general cultivation of nobleness of character, even if each individual were only benefited by the nobleness of others, and his own, so far as happiness is concerned, were a sheer deduction from the benefit" (Mill's *Utilitarianism* 32).

Thus, the notion of morality and justice are ideas based on utility principle, however; which intermingle with each other. When, the first is found to have its grounding on social norms and values, the latter is based on universal idea of imposing punishment and sanction for the offenders. Justice, often harsh, has its base on the utility perspective to control and manage a society.

Similarly, when justice is about equal treatment and fair attitude or behavioral approach taken by the state towards a human conduct, morality on the other hand is left on individual to decide and take care of. This is not morality because anything that is done for instant pleasure and betterment of mankind or living beings does not fall under its periphery. Let's say, an old and sick woman crosses an empty road other than Zebra crossing will still amount to breach of law. So, there is no morality when it comes to justice but only rules and imposition.

Similarly, the concept of justice has been presented in a different manner in the novel. There are interesting situations which have been overlooked during the course of pronouncement of death penalty on Billy. For example, with the testimonies of Dansker, the after guardsman, and Squeak, Billy could have been cleared of the mutiny charge. But it seems Melville wanted to use Billy as an example of the flaws in the laws of society; that they do not take into account the laws of nature. However, until we reform our laws in such a way that we cannot be punished for something out of our control, we cannot expect the laws to be interpreted that way.

Besides, the writing of *Billy Budd* also affords the opportunity to explore fundamental questions in political philosophy; especially, if law is guided by politics. This additional layer of queries is opened up by the manner in which the chief characters are described. Budd, who is compared to Adam before the fall, brings to mind that familiar figure of modern philosophy – the human being in a pre-political state of nature.

There are different philosophers who have written about this character differently. Budd resembles Rousseau's idea on the discourse on the origin of inequality among men than

the one to which Hobbes introduces us in *Leviathan*. Budd is, for example, neither fearful nor fearsome; rather than inclining to strife, Budd's mere presence brings peace and tranquility.

The notion that Budd stands outside civilization is suggested in a number of ways, including repeated animalistic descriptions: "Of self-consciousness he seemed to have little or none, or about as much as we may reasonably impute to a dog of Saint Bernard's breed" (qtd. in *Mill's Exploring Justice, Equality, Democracy, and Citizenship*, 59). Budd is glorified as, someone who was as much talented as Captain Vere. Though unable to read, Budd "could sing, and like the illiterate nightingale was sometimes the composer of his own song" (21). Budd, too, is untouched by the corrupting influences of civilization, as "Billy in many respects was little more than a sort of upright barbarian, much such perhaps as Adam presumably might have been ere the urbane Serpent wriggled himself into his company" (34).

Even that most intractable of enemies, disease spread in the street of Petersburg, may be indefinitely reduced in dimensions by good physical and moral education, and proper control of noxious influences. The progress of science holds out a promise for the future of still more direct conquests over this detestable foe. And every advance in that direction relieves us from some, not only of the chances which cut short our own lives, but, what concerns us still more, which deprive us of those in whom our happiness is wrapped up.

All the grand sources, in short, of human suffering are in a great degree, many of them almost entirely, conquerable by human care and effort; and though their removal is grievously slow- though a long succession of generations will perish in the breach before the conquest is completed, and this world becomes all that, if will and knowledge were not wanting, it might easily be made- yet every mind sufficiently intelligent and generous to

bear a part, however small and inconspicuous, in the endeavor, will draw a noble enjoyment from the contest itself, which he would not for any bribe in the form of selfish indulgence consent to be without.

And this leads to the true estimation of what is said by the objectors concerning the possibility, and the obligation, of learning to do without happiness. Unquestionably it is possible to do without happiness; it is done involuntarily by nineteen-twentieths of mankind, even in those parts of our present world which are least deep in barbarism; and it often has to be done voluntarily by the hero or the martyr, for the sake of something which he prizes more than his individual happiness. But this something, what is it, unless the happiness of others or some of the requisites of happiness?

It is noble to be capable of resigning entirely one's own portion of happiness, or chances of it: but, after all, this self-sacrifice must be for some end; it is not its own end. We are often told that the end of justice is not happiness but virtue. As such, it is better than happiness that would the sacrifice a hero or martyr in the name of fairness or justice. Or, are such heroes and lords immune from sacrifices? Would it be made if he thought that his renunciation of happiness for himself would produce no fruit for any of his fellow creatures? Instead, it would make their lot like his, and place individuals in the condition of persons who have renounced happiness?

All honor to those who can free themselves from the personal enjoyment of life, when by such renunciation they contribute worthily to increase the amount of happiness in the world; but he who does it, or professes to do it, for any other purpose, is no more deserving of admiration than the ascetic mounted on his pillar. As such, Budd is an inspiration and proof of what men can do, but assuredly not an example of what they should.

Perhaps this hypocrisy was what Melville conveyed in *Billy Budd* by representing the community oppressed by the church and government through sailor's lives. Gunn, referring to the community of the Pequod says that all sailors are wage slaves, and in slavery "there is no freedom or justice for any of the parties" (191). Sten mentions the irony of Captain Vere's decision. He says, "Unlike Ahab, Vere knows the cruel injustice of the fact that "whatever devotes itself to justice at the expense of reality" in the memorable words of Frank Kermode, "is finally self-destructive." But Vere knows, too, as his own subsequent death shows, that there is no cause more worthy of devotion. In the fight against the *Atheist*, he dies for the same cause for which he sacrifices Billy---the defense of his nation and his view of what constitutes justice to mankind" (308).

According to Donald Yannella in *New Essays on Billy Budd* the case in *Billy Budd* is of miscarriage of justice or even a plain injustice. It is so because an individual should not be punished for other than his/her crime. The rate of punishment must be limited and confined to the magnitude of crime. Billy's level of crime is not beyond few years of imprisonment or economic punishment, and in no means equals to death penalty. The agony of Captain Vere's decision bears a more important meaning; for it seems there is certain level of insecurity or psychological dominance he is bearing from Billy. Captain's decision resulting in Billy's execution resulted in suffering of guilt and remorse for the rest of his brief life. There is some aspect that Melville fails to explain because the novella was never completed.

The idea of justice is contaminated by Captain Vere for he acts excessively based on his self realization and understanding. Thus, the social and moral role that is to be considered during the pronouncement of justice is overlooked by Captain Vere. Generally, people who occupy significant or well-assimilated roles in society find themselves insulated from deviant

tendencies. A corporate executive, for example, is less apt to hold up a liquor store than a drifter. The difference is not based on income, but rather the pressure to conform that the successful role exerts upon its occupant.

Thus, there are chances of injustice during the entire process of pronouncing justice resulting in vulnerable social and moral chaos. Captain Vere the judge in the ship at sea is at the center of creating tragedy of justice. In this debacle of justice-at-stake, humble Billy is the Christ like victim.

### III. Fall of Justice in *Billy Budd, the Sailor*

The idea of justice is founded on the logic of rationality that is applicable and acceptable to larger number of people within a community. However, the idea that an act under an acceptable paradigm to maximum number of people is moral and justice, is not applicable in all cases. Hence, justice might be based on morality, but to say, these ideas are synonymous to each other, is a fallacy. Due to this notion that imposition of justice is based on the outcome of an event, Billy Budd is hanged to death.

The ferocity of punishment – quick and immediate, imposed on Budd is not moral, at all, despite having a legitimate ground for the same. The idea that punishment should meet the crime does not apply here. The accidental homicide of Claggart has to do with the way an individual has to live his/her life. The fact is human beings are subject to anger, passion, fear, love, pain, aggression, and such. In absence of this, life of an individual becomes monotonous and meaningless. As such, when Budd restores to violence on the aftermath of the accusation, it is merely a co-incidence. However, law does not consider this, for Captain Vere, the man in authority seeks to eliminate Budd in the name of law and justice. This is however, the cruelty performed by law in the name of justice.

As such, justice means a specific level of cruelty imposed on the victim for his/her alleged role in specific notions that is supposedly against the state's rule and regulations. There are several people being victimized in the name of law, order and justice. Billy is just one name in the list of innumerable people victimized in the name of justice, law and order. The pronouncement of justice on Billy is merely an event that shows the facets of modern day reality where the idea of so-called fairness to be pronounced by the state is still dictatorial in nature and largely based on the discretion of the judges. These discretionary

powers or special powers imposed on the judges often pave way for them to be autocratic, at many times.

When it is decided that Billy should be hanged by Captain Vere, it is discretionary or special powers imposed on the judges by the courts and legal order. Captain Vere is the judge according to the naval rule as he is the chief of the entire process taking place in the ship during its course in the sea. His decision is final and binding, unless an immediate authority revokes it, immediately. But in the ocean, this situation is not possible, and innocent Billy is hanged to death in accordance to so-called statutory norms.

As such, justice is often monopolistic and autocratic in nature. There is no one above law; but at times, people in higher position utilize the powers vested in them to carry out orders controlling and rewriting the fate of innocent and humble people. The case of Billy is a classic example of justice pronounced wrong – the way of justice being practiced around the world.



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