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The Grave Mistake of Confusing Concepts of Justice and Fairness With the Law

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One of the gravest mistakes people make is equating law with concepts of justice and fairness. In fact, the following phrase is engraved above the entrance of the United States Supreme Court building: "[Equal Justice Under Law](#)." It is important to note that it does not say "Equal Justice" because that is limited to the context of the "Law." In other words, a court's role is to resolve cases and controversies in accordance with the law, and to interpret the law, if necessary. By the way, "[fairness](#)" is a synonym for "justice."

In order to conclude that "Equal Justice" and "Equal Justice Under Law" are the same, one must believe that laws are based upon concepts of [fundamental fairness](#). As defined by Law.com, the [law](#) is "a statute, ordinance or regulation enacted by the legislative branch of a government and signed into law, or in some nations created by decree without any democratic process. This is distinguished from 'natural law,' which is not based on statute, but on alleged common understanding of what is right and proper (often based on moral and religious precepts as well as common understanding of fairness and justice)." The next point to consider is who makes the laws. In the United States, our [legislative branch of government](#) is responsible for enacting legislation. From a federal standpoint, that means the Congressmen and Congresswomen in both the Senate and the House of Representatives are responsible for such things. At a [state level](#), the laws are created by the members of the state legislature. Of course, city council is responsible for creating laws that are specific to any given city. Do all members of the legislative branch of our government have the same sense of fairness and justice? In fact, do all of the citizens responsible for electing those lawmakers have the same concept of fairness and justice? Moreover, once elected, do our lawmakers always enact legislation in accordance with the demands of their constituents? In other words, the law is the law and justice is justice. If the law is not necessarily just, how can "Equal Justice Under Law" be just or fair?

While this reality may be eye opening for many, do keep in mind that laws exist for a reason, as do "justice systems." According to Law.com, [law](#) is "any system of regulations to govern the conduct of the people of a community, society or nation, in response to the need for regularity, consistency and justice based upon collective human experience." To quote [Plato](#), "Laws are partly formed for the sake of good men in order to instruct them how they may live on friendly terms with one another, and partly for the sake of those who refuse to be instructed, whose spirit cannot be subdued, or softened, or hindered from plunging into evil." Since laws exist for good reason, so does the "justice system," which was designed to administer "justice" based upon those laws. However, unless one is being prosecuted for violating criminal law, it is not necessary to resolve a dispute "Under Law," unless doing otherwise is illegal or a violation of public policy.

It is true that "[fairness](#)" is a subjective concept, but is it more likely that those involved in a dispute will be satisfied with the result if it is based upon the law or through some agreement reached in accordance with their respective sense of fundamental fairness?

When two people marry or enter into a business relationship, is it more likely that they have similar values or that the laws in place more accurately reflect their respective values? This distinction is extremely important because when people resolve conflicts under the shadow of the law, it tends to be based upon legal positions. Whether you "win," "lose," or otherwise reach a compromise "Under Law," how does that coincide with your personal sense of fundamental fairness? If you are tied together for life because you have children together, if a resolution is not in accord with either or both person's core values, how might that play out in the future? This is why in "[true mediation](#)" and [collaborative law](#), the professionals work with those involved in the dispute to identify their values, interests, and needs.

Because people tend to confuse their legal positions with their own personal values, interests and needs, this frequently involves some "deep digging." This process is commonly referred to as "[interest based negotiation](#)" or "win/win negotiation." Whatever term is used, it is a method of resolving conflicts in accordance with the personal values, interests and needs of those involved in the dispute. Agreements reached in such a manner tend to better suit the individual needs of the parties involved and therefore they are more likely to comply with the terms of the agreement.

Would you rather have "Justice Under Law," or resolution that is in alignment with your personal sense of fundamental fairness? You may have noticed that I did not refer to "Equal Justice." My reason for removing the term "Equal" is that whether or not "Justice" is applied "Equally" has been an ongoing source of debate throughout history.