
JUSTICE AND PEACE

by Nicholas P. Wolterstorff

It was practice among the Christian theologians of the West during the Middle Ages to think of justice as a personal virtue, as one of those habits which are meritorious features of the character of a person. They typically classified justice as one of the four so-called 'cardinal' virtues, the others being prudence, fortitude and temperance; to these they added the three so-called 'theological' virtues of faith, hope and charity.

But justice is not only a meritorious character trait. Justice is also a meritorious dimension of social relationships. A social practice or arrangement, as well as some specific social interaction, may be just or unjust; justice may prevail in a certain regard within a certain group of people, or may fail to prevail.

Though the medieval theologians gave far more prominence to justice as a meritorious trait of character than they did to justice as a meritorious dimension of social relationships, the latter is the more fundamental concept. For the just person is the person whose habit it is to pursue justice in social relationships. The fundamental question to be considered thus is this: What constitutes justice in social relations? What is it for a person or group of persons or for a social institution of one sort or another to be treated justly?

The Concept of Justice

Ever since classical antiquity, the answer has been that it is when a person receives what is due to him or her that the person is treated justly. The same holds for groups of persons and social institutions. It has also been traditional to distinguish between retributive and distributive justice. When something is due to a person on account of some wrongdoing on that person's part, and the person receives what is thus due to him or her, then retributive justice is rendered that person. By contrast distributive justice is rendered a person when that which is rendered is not due to the person on account of the

wrongdoing on the person's part. (Naturally the same distinction applies to justice rendered to social groups and institutions.) The word 'distributive' is a bit misleading, however. It suggests fairness in distributing some good - or some evil - among the members of a group of persons. But non-retributive justice, or injustice, need not involve fair distribution of goods or evils among members of a group. When the officials at a race refuse to award the first-place prize to the person who comes in first because that person is black rather than Caucasian, and when they do not give the prize to anyone else, they are acting unjustly, even though no unfair distribution has taken place.

In the traditional formula of justice as *receiving what is due to one*, there is an ambiguity, at least as it pertains to distributive justice. The formula might mean '*enjoying or undergoing what someone has an obligation to render to one*', or it might mean enjoying or undergoing that to which *one has a legitimate claim*, be that claim grounded in morality, law or practice'. In other words, someone else's obligation, versus one's own legitimate claim. If understood in the second sense, then (non-retributive) justice is the same phenomenon as enjoying one's rights; since to have a right to something, in at least one important sense of the phrase 'to have a right', is to have a legitimate claim to that something.

Admittedly not everyone who writes about justice is willing in this way, to connect with rights. Alasdair MacIntyre (1929-), for example, regards the concept of rights as a modern invention but regards the ancient Greeks as working with the concept of justice. His argument seems to be that before the modern era there was no language of rights; and throughout his argument he seems to identify rights with that list of negative rights enshrined in modern liberal political theory. But rights - legitimate claims to some good or other - are vastly more extensive than such rights; the person who wins the Tour de France has a right to a first-place prize. And the fact that a writer lacks a distinctive language for rights does not establish that he or she lacks the concept. Ancient peoples had the concept of a legitimate claim to something; it did not take us moderns to bring that concept to birth.

It should also be mentioned that not everyone would concede that there is an ambiguity in Aristotle's formulation. Some philosophers have held, for example, that the right to some good is always a right

against someone for the granting of that good; a legitimate claim to some good is always a legitimate claim against someone. And then it said that to have a right or legitimate claim against a person for some good is just for that other person to have the duty to grant one that good. Duties and rights are thus the mere converse of each other.

This position has proved attractive to a good many Christians. It is said to be incompatible with evangelical humility to suppose that we have rights, if those are understood as anything other than the correlative of duties. Speaking of rights is a sign of, and a rationale for, the self-assertiveness which the gospel condemns; it encourages and expresses an individualistic way of thinking which is deeply alien to the Bible. The situation is rather that we are responsible to and for one another.

This is not the place to show in full detail that there are rights to which no duty corresponds; one example will have to suffice. Suppose I have the right to walk in the public gardens until 8 p.m.; the law book clearly says so. Suppose you are appointed keeper of the gardens. And suppose that, in your orientation sessions, you are falsely and deceptively told that it is your duty to keep people out after 6p.m. I then appear one day at 7 p.m. and try to enter; and you prevent me from doing so. Your doing so is a violation of my rights. Yet you are morally innocent in preventing me: indeed, you would be morally culpable if you did not try to hinder me. You would be failing to do what you justifiably believed you ought to do. Here then is a right to which there is no corresponding duty. Rights do not alter in situations of ignorance in the way in which duties alter in situations of ignorance.

As to duties to which no rights correspond, charity provides us with a multitude of examples. There is a long line of Christian thought which holds that charity is not just notable and admirable but obligatory. Yet charity, though it often takes the form of rendering to someone some good to which that person has a legitimate right, also often takes the form of going beyond that; and sometimes it takes that form when it is obligatory to go beyond.

If these considerations are correct, then we must think of duties and rights as two distinct dimensions of our moral existence, both of

fundamental importance. All of us are so situated before God and our fellow human beings as to have rights; and those of us capable of intentional action are also so situated before God and our fellow human beings as to have duties. One person's rights interact in complex ways with other persons' duties - and, indeed, with that person's duties. But the structure of rights is distinct and independent from the structure of duties; one is not merely the mirror image of the other. The other in my presence is someone to whom I have responsibilities; but the other in my presence also comes bearing claims. If my rights are not honoured, more is at stake than just that someone's moral character is besmirched for having failed to do his or her duty by me. I am injured, morally injured. The failure to do one's duty makes one guilty; the failure to receive one's rights makes one injured. To the former, repentance is appropriate; to the latter, lament, and perhaps outrage. Justice, distributive justice, is intrinsically connected with rights: justice is present among persons, groups and institutions when their rights, their legitimate claims, are honoured.

The Biblical Ground and Contours of Justice

More could be said about the concept of justice; but let us move on to the contours and the grounds of justice. It is here that most of our disagreements concerning justice are to be located - not so much over the concept of justice as over what is as a matter of fact due to persons (and groups and institutions) and why it is due to them. It is on these two points that both the OT and NT offer a distinct perspective.

a. The Grounds of Justice.

Over and over the biblical writers say that God loves justice. 'I, the LORD, love justice' (Is. 61:8) and 'The LORD loves justice' (Ps. 37:28, RSV) are but two examples from a multitude.

Furthermore, God's love for justice is declared to be an active love: God does justice. For example, 'The LORD works righteousness and justice for all the oppressed' (Ps. 103:6); 'I know that the LORD secures justice for the poor and upholds the cause of the needy' (Ps. 140:12); and in Ps. 146 it is the Lord 'who executes justice for the oppressed; who gives food to the hungry. The LORD sets the prisoners free; the LORD opens the eyes of the blind. The LORD lifts up those who are bowed down; the LORD loves the righteous. The

LORD watches over the sojourners, he upholds the widow and the fatherless; but the way of the wicked he brings to ruin' (Ps. 146..7-9, RSV).

An ancient, enduring, and prominent strand of Christian theology sees God's justice as exhibited in God's anger with those who disobey God's commands. God's justice is exhibited in God's practice of retributive justice. And the Bible does indeed speak of God's retributive justice. But the many passages which speak of God's love of justice are not pointing to God's delight over the suffering of those who are justly punished. God's love for justice is grounded in God's love for the victims of injustice - for those who are morally violated, morally injured.

This love leads God to enjoin us to do justice. 'Follow justice and justice alone', says Moses in his farewell speech, 'so that you may live and possess the land the LORD your God is giving you' (Dt. 16:20). And in a passage which by now has entered deep into the consciousness of humanity, God says through Amos: 'Let justice roll on like a river, righteousness like a never-failing stream' (Am. 5:24).

Not only are we to see God's love for the injured and suffering behind God's injunction to us to do justice (cf. Mi. 6:8); we are also to see God's invitation to image God as lying behind it. As God is just, so are we to be just. We are to be icons of God, imaging God's justice in our justice. Again the farewell speech of Moses makes the point: God 'executes justice for the fatherless and the widows, and loves the sojourner, giving him food and clothing. Love the sojourner therefore; for you were sojourners in the land of Egypt' (Dt. 10:18-19, RSV). 'Do not deprive the alien or the fatherless of justice, or take the cloak of a widow as a pledge. Remember that you were slaves in Egypt and the LORD your God redeemed you from there. That is why I command you to do this' (Dt. 24:17-18). As God has heard our laments and satisfied our longings, so in imitation we are to hear the laments of the poor, the weak, and the oppressed.

Deep in the tradition of Christian reflection is the conviction that the requirement to do justice is rooted in the requirement to respect the image of God in persons; honouring that image requires honouring the legitimate claims of that person. This theme is profoundly

important; and is surely a legitimate extrapolation from Gn. 9: 'Whoever sheds the blood of a human, by a human shall that person's blood be shed; for in his own image God made humankind' (Gn. 9:6, NRSV). But more prominent in the Scriptures themselves than the theme of doing justice as a manifestation of our respect for the image of God in persons is the theme of doing justice as *constituting (part of) our imaging of God*.

b. The Contours of Justice.

A clue to the prophetic understanding of the contours of justice is the fact that when justice is spoken of in the OT, over and over again it is widows, orphans, aliens, and the impoverished who are brought into view. Justice is intimately connected with the fate of these groups. The citations given above provide just a few examples. Reflection on the significance of these references leads one deep into the biblical understanding of the contours of justice. To become just, a society must bring into community all its weak and defenceless ones, its marginal ones, giving them voice and a fair share in the goods of the community. It is thus no accident that the holiness code in the Torah includes prescriptions concerning justice, since holiness requires wholeness, or integrity. By contrast, when Plato in *The Republic* spoke of the just society, widows, orphans, aliens and the impoverished were nowhere in view. The fundamental contour of justice was identified by Plato with a certain kind of 'law and order': a society is just when authority is exercised by wise persons and is pervasively obeyed. So too John Locke (1632-1704), in his classic *Second Treatise on Civil Government* (1690) nowhere gives special attention to the marginal members of society. The liberal notion of the just society, in whose genesis Locke plays a pivotal role, is, roughly speaking, that a society is just when each person is free to pursue the good life as he or she sees fit, provided that a similar liberty is accorded to others.

It is often said that the OT concern for justice disappears in the NT. But if the OT picture of the just society has the contours suggested, that thesis is indefensible. For not only were the actions and parables of Jesus pervasively concerned with bringing the outsiders into community, these being the actions and stories which brought him constantly into conflict with the Pharisees who preached and

practised the exclusiveness of the 'holy community'; Jesus' own self-identification as it occurred in the famous synagogue episode in Lk. 4 was an identification which consisted of saying that he was that harbinger of justice of which Isaiah and the other prophets spoke: 'The Spirit of the Lord is on me, because he has anointed me to preach good news to the poor. He has sent me to proclaim freedom for the prisoners and recovery of sight for the blind, to release the oppressed, to proclaim the year of the Lord's favour', and 'Today this scripture is fulfilled in your hearing' (Lk. 4:18-19, 21). It is true, of course, that Jesus did not engage in politics in the usual sense: he was not concerned with reforming and reinforcing the practices of his society by means of State law. But it should be clear from the foregoing that it is mistaken to think that justice is exclusively the concern of politics.

It may be added that it would never occur to anyone reading the NT in its original Greek that it did not speak of justice; it is our English translations that encourage this thought. The Greek words *dikaïos* and *dikaïosyne* occur regularly in the NT, these being the words which, in classical Greek, anyway, are almost always translated as 'just' and 'justice' respectively. Yet seldom are they thus translated in our English New Testaments. Customarily they are translated as 'righteous' and 'righteousness'. It cannot be said that these are mis-translations - not, at least, if one allows to come into prominence the notion of going right rather than the connotations, from contemporary English, of self-righteousness and private morality. But when none of the occurrences of *dikaïos* and *dikaïosyne* are translated as 'just' and 'justice', when all are translated as 'righteous' and 'righteousness', then connections to the OT proclamations concerning justice are obliterated and a seriously false impression is given. One example will have to suffice here. In the Beatitudes as recorded by Matthew, we read: 'Blessed are those who hunger and thirst for righteousness, for they will be filled', and 'Blessed are those who are persecuted because of righteousness, for theirs is the kingdom of heaven' (Mt. 5:6, 10). In both verses the word translated as 'righteousness' is *dikaïosyne*. Jesus is speaking of justice; he blesses those who long and struggle for justice.

Types of Rights

A distinction is sometimes made, by rights theorists, between negative or freedom rights, and positive or benefit rights: a negative right is the right to be allowed to do something; a positive right, the right to receive some benefit or other. And it is regularly argued by those of libertarian tendencies, whether Christian or other, that there is something incoherent or unacceptable in the notion of benefit rights. For example, it is argued that acknowledging benefit rights unavoidably infringes freedom rights; if a society is to secure the subsistence of its members, it will sometimes have to take property from certain of its members against their will (for example, in the form of taxation) and give it to the impoverished for their sustenance, thus infringing their freedom rights.

This libertarian claim is clearly in conflict with the biblical contour of justice outlined above, according to which the fate of the impoverished and the marginal is central to the justice or injustice of social arrangements. In fact very many of the great theologians of the church have explicitly affirmed the right of the involuntarily and avoidably impoverished to fair access to means of sustenance: Basil of Caesarea (c. 329-379), John Chrysostom, Ambrose, Thomas Aquinas and John Calvin are examples. To cite just one of these, Basil said: 'Will not one be called a thief who stole the garment of one already clothed, and is one deserving of any other title who will not clothe the naked if he is able to do so? That bread which you keep, belongs to the hungry; that coat which you preserve in your wardrobe, to the naked; those shoes which are rotting in your possession, to the shoeless; that gold which you have hidden in the ground, to the needy. Wherefore, as often as you were able to help others, and refused, so often did you do them wrong' (quoted in C. Avila, *Ownership*, p. 50).

Nothing has been said in our discussion up to this point about natural rights, or about human rights - deliberately so, since calling attention to such rights at the beginning tends to obscure from view the wide diversity of rights. None the less, natural human rights are obviously of fundamental importance.

The two concepts should not be identified. The idea of a natural right to something is the idea of a right grounded in the nature of things

rather than in some social arrangement. Medieval political theorists sometimes thought of the right of certain persons to be monarchs as a natural right of theirs; John Locke regarded one's right to possess that with which one has mixed one's labour as a natural right; and probably most of us think of parents and children as having certain rights with respect to each other which are grounded in the very nature of their relationship. The idea of a human right, by contrast, is the idea of something to which one has a right merely by virtue of being a human being. The natural rights cited above are not human rights. Even if someone has a right to be monarch, he or she does not have that right merely by virtue of being human; and the rights a person has by virtue of being a parent go beyond those that person possesses merely as a human being.

It appears that no one in classical antiquity defended, or even considered, the view that there are natural human rights. The view emerged in late antiquity. And it appears to have had two sources: the biblical idea, already mentioned, that all human beings are created in the image of God; and the Stoic idea, that all human beings are alike in having the divine principle of Reason present within each. Brunner's summary of the evidence concerning the origin of the concept of natural human rights, in his *Justice and the Social Order*, is judicious: 'Let us admit that it was the Christian view of life blended with the Stoic which created the conception of the equal dignity of all human beings'.

Justice and Shalom

It has already been mentioned that justice is closely connected in the Bible with holiness. It is just as closely connected with peace - or, better, with what the Hebrew writers called shalom. Shalom, however, is perhaps better translated into contemporary English as 'flourishing' than as 'peace'. To experience shalom is to flourish in all one's relationships - with God, with one's fellow human beings, with the non-human creation, with oneself. Such 'flourishing' naturally presupposes peace in the usual sense, absence of hostility. But shalom goes beyond the absence of hostility, to fulfilment and enjoyment. A nation may be at peace with all its neighbours and yet, because of its impoverishment, not experience shalom.

There can be no doubt that justice was seen by the biblical writers as an indispensable component of flourishing in one's social relationships. Again, only an indication of the connection can be given here. Isaiah says that only when 'justice will dwell in the desert and righteousness live in the fertile field' will it be true that 'the fruit of righteousness will be peace [shalom]; the effect of righteousness will be quietness and confidence for ever' (Is. 32:16-17). And the psalmist says that, in shalom, 'Love and faithfulness meet together; righteousness and peace kiss each other. Faithfulness springs forth from the earth, and righteousness looks down from heaven' (Ps. 85:10-11).

Justice and Love

The relation of love to justice has been a persistent theme of reflection by the theologians and philosophers of the church, from antiquity down into the 20th century. As to the relation of love to justice in God's case, the Augustinian view has been more influential than any other in the Western church: the sins of human beings make punishment something due to them; God's punishing human beings for their sins is thus a matter of retributive justice. Indeed, the sins of humankind merit everlasting punishment. However, God, out of a love which goes far beyond justice, has 'elected' certain human beings for salvation. The two principal difficulties which this view must confront are the fact that arbitrary 'election' to salvation seems unfair, hence unjust; and that justice and love are presented as if they were two unconnected attributes of God. On this last matter, Karl Barth, in his *Church Dogmatics*, devoted a great deal of time to arguing that God's love is basic, and that God's anger must be seen as anger against all that injures those whom God loves.

As to the relation between love and justice in human beings, the standard view has probably been that love is something other than justice; and that, if we compare their deeds, the deeds of charity can be seen to go beyond deeds satisfying the demands of justice. That is the basic position taken by Brunner in *Justice and the Social Order*. To show that love and justice are two different things, Brunner emphasizes the personal character of love and the impersonal character of justice. As to the relationship between deeds of love and deeds of justice, Brunner concedes that there are difficulties in the

‘going beyond’ view, which none the less he embraces, since the coerciveness which the doing of justice sometimes requires seems incompatible with love.

It has been especially characteristic of the Lutheran tradition to see love in tension with justice rather than merely going beyond it. The tension was most vividly emphasized in our century by Reinhold Niebuhr in *An Interpretation of Christian Ethics*. Niebuhr argued that the best we can and should expect out of social arrangements is justice, that the ethic of love preached by Jesus is in conflict with justice, that that ethic is thus an ‘impossible ideal’, but that we are none the less called to embrace it and live in the tension. It was characteristic of Niebuhr in his later writings to emphasize that the insertion of love into political and economic affairs is typically *destructive* in its consequences.

We cannot probe these issues further here. But it is worth recalling a point made earlier: in the Bible, God is represented as loving justice. That love is grounded in God’s love for the victims of injustice. Perhaps it should be no different for us human beings. Love is a trait of character, whereas justice is a feature of social arrangements and interactions; so love and justice are indeed different. But doesn’t charity require as a minimum that we struggle for the honouring of the rights of our fellow human beings? And doesn’t love require, accordingly, an understanding of justice, and its practice? Perhaps, then, love is not entirely incompatible with coercion, specifically with coercion of the doer of injustice.

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