

GOD AND JUSTICE

For both lawyers and theologians, the concept of justice is a fundamental one. But both have been (justly?) accused of having only a fuzzy notion of what justice is. Indeed, perhaps the most enduring formulation of justice is that to be found in Justinian's Digest "Give to each what is due to him"¹. The problem with this formula is that without an independent account of what is due to people it can be used to justify the most inhuman treatment of people; indeed in its German translation, *Judem das seine*, it was the motto above the gates of the Buchenwald concentration camp.²

In a recent book *Good News About Injustice*, Gary Haugen, an American lawyer, and former director of the UN genocide investigation in Rwanda has given Christians a new definition: "Justice occurs when power and authority is exercised in conformity with God's standards. Injustice occurs when power is misused to take from others what God has given them, namely, their life, dignity, liberty or the fruits of their love and labour."³ The vital content for the formulation – give to each what is due to him – is that **what is due to people is what God has given to them**. These gifts of God, given to all people, whether believers or not, are to be found in the creation narratives of the book of Genesis, and their existence is reinforced in the Wisdom literature of the Old Testament.

I. Justice and the Individual

A. God has given the individual life

The Bible teaches that God gave life to the human race as a whole and gives life to us as individuals. Despite the Fall and the entry of sin into the world, God continues to bless us. He causes his rain to fall on both the just and the unjust (Matthew 5:45). In fact, every good gift that we enjoy comes from God (James 1:17).

¹ The complete Justinian formula is *honeste vivere, neminem laedere, suum cuique tribuere*.

² Observation of J.W. Montgomery in "Why a Christian Philosophy of Law?" in Paul Beaumont (ed.) *Christian Perspectives on Human Rights and Legal Philosophy* (Carlisle: Paternoster, 1998) 84.

³ Gary A. Haugen *Good News About Injustice* op. cit. 72.

B. God has given the individual dignity⁴

Moreover, God has given human beings dignity by making us in his image (Genesis 1:26-27). Because all human beings are made in the image of God, each and every human being is infinitely valuable. All have the right to opportunities and to be given the potential to flourish.

As all human beings are created in God's image, with dignity and worth, so there is a powerful Christian argument for the fundamental equality of all people.⁵ But Christian equality is different from other ideas of equality, which at worst mean nothing other than that all people (usually with the conspicuous exception of the theory's proponent) are equally expendable. Christianity teaches that all are **equally valuable**.⁶

C. God has given the individual liberty

God gave human beings liberty. We were not created as robots, obliged to do his bidding, but as creatures with free will able to choose to love him or to disobey him.

Archbishop William Temple expounds upon this idea in his classic work *Christianity and Social Order*: "The person is primary not the society; the State exists for the citizen, not the citizen for the State. The first aim of social progress must be to give the fullest possible scope for the exercise of all powers and qualities which are distinctly personal; and of these the most fundamental is deliberate choice. Consequently society must be so arranged as to give to every citizen the maximum opportunity for making deliberate choices and the best possible training for the use of that opportunity. ... it is

⁴ Article 5 of the Lausanne Covenant; Sir Fred Catherwood *A Better Way* (London: IVP, 1975) 36-52, Matthijs de Blois "The Foundation of Human Rights: A Christian Perspective" in Paul Beaumont (ed.) *Christian Perspectives on Human Rights and Legal Philosophy* (Carlisle: Paternoster, 1998) 14-18; Michael Schluter and David Lee *The R Factor* (London: Hodder & Stoughton, 1993) 267; John Stott *Issues Facing Christians Today* (London: Marshall Pickering, 1990) 154-6.

⁵ Matthijs de Blois "The Foundation of Human Rights: A Christian Perspective" *op cit* 18-21; see also John Stott *Issues Facing Christians Today* 156-9.

⁶ William Temple *Christianity and Social Order* 37; see also Brian Griffiths *Morality and the Marketplace* 37, 95.

the responsible exercise of deliberate choice which most fully expresses personality and best deserves the great name of freedom."⁷

D. God has given human beings the capacity for meaningful work and meaningful relationships

Despite the Fall, the creation ordinances: the procreation command to be fruitful and multiply (Genesis 1:27-8), the sabbath command to rest on the seventh day (Genesis 2:2-3), the work command (Genesis 2:15) and the marriage command (Genesis 2:24)⁸ remain valid as both divine commands and divine blessings. Despite the difficulties and frustrations of living in a fallen world, marriage and having children, work and rest, are good and are God-given.

God gave human beings the capacity and the responsibility to work. Human work should be so structured in a way that it is meaningful and can be seen to be valuable⁹. God gave human beings the capacity and the responsibility to love. The human condition is social¹⁰. Human society should be so organised that good, loving relationships have a conducive climate in which to grow and develop.

E. Conclusion

The Bible places the highest value on the individual. Each one of us is made in the image of God. Each one of us will be judged by him for our own sins¹¹, and on the basis of our own response to his love for us expressed through his Son, Jesus Christ¹². The Bible also places the highest value on relationships. Relationships are fundamental to who we are as human beings. We do not exist only as individuals, we are people, with both our individual traits and our networks of relationships which impact on who

⁷ William Temple *Christianity and Social Order* 67. See also Brian Griffiths *Morality and the Marketplace* 92-3.

⁸ Ernest Reisinger *The Law and the Gospel* 13-14.

⁹ Sir Frederick Catherwood *A Better Way: The case for a Christian social order* 38.

¹⁰ Matthijs de Blois "The Foundation of Human Rights: A Christian Perspective" *op cit.* 15 "The first pages of the Bible make clear that people are not created only as individuals to live on their own. ... people are created in communion with other people. Not only the individual, but also the communities of individuals, such as marriage and families, deserve respect." See also William Temple *Christianity and Social Order* 63.

¹¹ Ezekiel 18; Romans 3:23.

we are. These twin truths are a powerful pointer towards the twin realities of individual responsibility and social responsibility.

II. The good gifts of God and the concept of the Good

Christianity, of course, has a clear account of the ultimate good to offer: to know and to love God¹³. Its founder's teachings make it clear, however, that this ultimate good is not to be enforced by law. But there is also a Christian vision of what is "naturally" good, as a basis for a good society. In the creation narratives can be found the five good gifts of God which Gary Haugen identifies: life, dignity, liberty, love and labour.

This belief in defined forms of the good contrasts with the utilitarian view of society in which each person is completely free to decide for himself what is his good, what he thinks will make him happy. The job of government is then to arrange society in such a way that happiness is maximised, so that more people are able to achieve their vision of the good than are frustrated in their attempts to achieve it. People are treated equally in that the interests of all are put into the equation to determine what social order will achieve the greatest overall happiness. This the just society. For the utilitarians, if the majority are happy, then this more than compensates for the unhappiness of the minority¹⁴, no matter what the majority happen to have chosen as their "good". The utilitarian notion of justice is inadequate because it fails to value individuals sufficiently. Those who lose out in the utilitarian calculus can have no complaint that society's treatment of them is unjust.

The leading Modern Liberal thinker John Rawls argues in his book *A Theory of Justice* against utilitarianism that justice requires that the interests **of all** be considered. The starting point must therefore be equality for all, and this can only be deviated from to the extent that giving some extra resources will mean that everyone in the community, and especially the worst off will be better off (the "maximin" principle)¹⁵. Only then will we have a just society. But, as Rawls' critics point out, Rawls' account of justice merely seeks to include all in the benefits of being able to choose and work towards

¹² John 3:16.

¹³ John 10:10, John 17:3.

¹⁴ Assuming that their relative degrees of happiness and unhappiness are balanced.

their own individual conception of the good. Rawls himself has no account of the good to offer.

III. Justice and the Community

Rawls' theory is not only open to criticism because it offers no account of the good, but also because in seeking to correct the utilitarian failure to recognise the importance of individuals, each of whom has only one life to lead, he is ultra-individualistic, and fails to place sufficient weight on people's relational identity.

Modern Liberalism's conception of human beings is inadequate as nineteenth century contract law's conception of agreements was inadequate. Just as nineteenth century contract law imagined two men of equal status, in possession of all relevant resources and information, on a par with one another, able to define and look after their own interests perfectly, so Rawlsian liberalism views human beings as Kantian abstractions, hypothetical beings unencumbered by emotional attachments and able to contract with one another for all men for all time.

Christianity, on the other hand, recognises that human being is fundamentally relational. Human identity and purposes is found and grounded in a threefold set of relationships – with God, with other human beings and with the rest of creation. Any account of justice which makes individual rights primary prejudices against communitarian benefits and communal interests¹⁶.

IV. The Christian vision of a just society

The Christian vision of a just society is built around a distinctive understanding of the nature of the common good and of obligations of social solidarity.

A. The common good

Because human beings as individuals, are infinitely valuable, the teaching of the Christian Church is that the interests of one may not be sacrificed for the greater

¹⁵ Rawls *A Theory of Justice* 150-3, 302-3.

¹⁶ Julian Rivers "A Bill of Rights for the United Kingdom?" *op cit* 43.

happiness of another¹⁷. Because human relationships are fundamental to what it means to be human¹⁸, those in human societies have responsibilities towards one another.

In Catholic Social Teaching, the Papal Encyclical *Pacem in Terris* spells out: “Hence every civil authority must strive to promote the common good **in the interests of all**, without favouring any individual citizen or category of citizen ... Nevertheless, considerations of justice and equity can at times demand that those in power pay more attention to the weaker members of society, since these are at a disadvantage when it comes to defending their own rights and asserting their legitimate interests.”¹⁹

Despite their different conceptions of the person, this Christian idea is close to the idea of John Rawls that the aim of government must be to maximise the resources available to the worst off²⁰. For Rawls, this is his second principle of justice, the first being that “each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others.”²¹ For Rawls, the two principles are arranged in lexical priority, i.e. that it is impermissible to give up basic liberties in exchange for social and economic goods.²² For the Christian too, a person’s right to life, to his dignity, to his liberty and to intimate relationships are inviolable. But the majority of Christians would accept that this does not prevent the State from depriving him of his

¹⁷ Dr John Casey, fellow of Gonville & Caius College, Cambridge, identified precisely this distinction between Christian ethics and utilitarian ethics as being at the heart of the issues in the tragic case of the Siamese twins recently before the courts: *Re A (Conjoined Twins)* [2001] 1 FLR 1, 2 WLR 480, in an article at p.10 of *The Daily Mail* on 5th September 2000.

¹⁸ J.W. Montgomery makes the point that the classical theologians of orthodox Christianity, such as Augustine, taught that man does not exist for himself alone, but for his God and for others: J.W. Montgomery "Whose Life Anyway?" in Paul Beaumont (ed.) *Christian Perspectives on Law Reform* (Carlisle: Paternoster, 1998) 93.

¹⁹ *Pacem in Terris*, 56 quoted in *The New Politics* 9.

²⁰ Set out in *A Theory of Justice* (OUP, 1972) 150-3, 302-3, @303 “All social primary goods – liberty and opportunity, income and wealth, and all the bases of self-respect – are to be distributed equally unless an unequal distribution of any or all of these goods is to the advantage of the least favoured.”

²¹ Rawls *A Theory of Justice* 60, 302.

²² Rawls *A Theory of Justice* 60-3.

life or liberty when such is the just response to the violation of another's rights for which he is responsible²³.

B. Solidarity

The Bible quite clearly teaches about our obligations towards our fellow human beings. When God asked Cain about the killing of Abel, Cain replied "Am I my brother's keeper?"²⁴. No, Cain was not his brother's keeper; he was his brother's brother. The obligations of social solidarity arise not because we are fellow Christians but because we are fellow humans²⁵. Our obligations to one another cross the boundaries of class, status, nation and race.

Pope John Paul II spelt out solidarity in the encyclical *Sollicitudo Rei Socialis* as being "a firm and persevering determination to commit oneself to the common good; that is to say, to the good of all and of each individual because we are all really responsible for all."²⁶

V. **Economic and social justice**

A commitment to solidarity and to the good of all necessitates a commitment to social justice. If all are made in the image of God then all have the right to participate in the riches of his creation, both economic and social.

A. Economic justice

In relation to economic justice there are two broad categories of issue: the first is the process of production and sale itself - on what terms is it to take place, and what regulation (if any) will control this activity?; the second is, what proportion (if any) of the profits made will be re-distributed?

²³ Romans 13:4.

²⁴ Genesis 4:9.

²⁵See, for example, Sir Fred Catherwood *A Better Way: The case for a Christian social order* (London: IVP, 1975) 41. See also John Stott *Issues facing Christians Today* 161, 221-6 and David Burnett *The Healing of the Nations* (Carlisle: Send the Light Ltd, 1986) 25. Which is not to say that there are not distinctive responsibilities which we owe to our natural families (1 Timothy 5:4) or to others within "the household of faith" (Galatians 6:10).

²⁶ *Sollicitudo Rei Socialis* 38.

1. Regulation of economic activity

The creation ordinances provide a framework for human beings to fulfil their natural potential, albeit that its ultimate realisation is now frustrated by the Fall. Christopher Wright identifies four key creation values from the narratives in Genesis: the principle of shared access to and use of the land and natural resources, the privilege and responsibility of work, the principle of economic growth, and the principle of stewardship.²⁷ He could also have added the principle of shared rest. Wright concludes from the creation narratives that the principle of shared access is prior to the principle of private property,²⁸ although it serves only to set bounds on the latter rather than to negate it.

The Mosaic law placed strict limitations on economic activity, with laws about tithing²⁹, resting and gleaning³⁰ which all prevented land-owners from bleeding their land and their workers dry in the name of profit³¹. In place of profit maximisation there was an ethical framework for a form of profit optimisation.³²

2. (Re-)distribution of profits

It is almost impossible to ignore the plethora of biblical references which demonstrate that God has a special concern for the poor³³. In consequence, "[t]he whole infrastructure of the modern State - Parliament, Government, the Courts, the various levels of political life, if they are to be seen as deriving their authority and meaning

²⁷ Christopher Wright *Living as the People of God* 85.

²⁸ See also William Temple *Christianity and Social Order* 48-9, where he buttresses his position by quoting St Ambrose in support of it!

²⁹ Leviticus 27:30-32; Deuteronomy 14:22-29.

³⁰ Leviticus 19:9-10; Ruth 2:2.

³¹ The Jubilee legislation also has obvious restrictive consequences on profit-making.

³² Stephen Copp "A Christian Vision for Corporate Governance" in Paul Beaumont (ed.) *Christian Perspectives on Law Reform* 129. And if James 5:1-6 is anything to go by, this concern about profiteering is carried over into the New Covenant era.

³³ For example, Exodus 23:19; Leviticus 19:10 and 23:22; Deuteronomy 15:11; 1 Samuel 2:8; Job 5:15; Psalm 10:14 and 35:10; Jeremiah 5:28-29; Jeremiah 21:12; Amos 2:6-7; Luke 4:18; James 2:5-6.

from God Himself, must attend to the impact of their work on the poor, the distressed, the vulnerable."³⁴

The American Baptist thinker, Ronald Sider, writes: "I never thought that biblical revelation demanded absolute equality of income and wealth. ... I feel absolutely confident, however, that the biblical understanding of "economic equality," or equity, demands at least this: **God wants every person, or family, to have equality of economic opportunity at least to the point of having access to the necessary resources (land, money, education) to be able to earn a decent living and participate as dignified members of their community.**"

The Mosaic law itself was designed to create a society of relative equality, in which each family possessed adequate land resources to be able to earn a reasonable and acceptable living³⁵. The thrust of the Old Testament Jubilee legislation was to ensure that everyone maintained a stake in society, by ensuring at least once in a lifetime, the return of the ancestral lands, which carried with them social status and the ability to earn a living.³⁶

B. Social Justice beyond the Economic

But the Christian approach to the issue of social justice goes beyond mere economics³⁷. Money is after all, only a tool, and the love of money a root of all kinds of evil³⁸. The Bible clearly teaches "A man's life does not consist in the abundance of his

³⁴ John Gladwin *The Good of the People* 33.

³⁵ Adam Scott argues that the Mosaic legislation provided for "equality in kind, though not in degree", in Paul Beaumont and Keith Wotherspoon (eds.) *Christian Perspectives on Law and Relationism* (Carlisle: Paternoster, 2000) 170. Brian Griffiths' more conservative analysis was that while the Mosaic legislation provided for "the ability of each family to retain a permanent stake in the economy, the mandate on the community [was] to relieve poverty rather than pursue equality ..." *Morality and the Marketplace* (London: Hodder & Stoughton, 1982) 9, see 81-3 and 94.

³⁶ In these comments I gratefully adopt the insights of Mohan Seevaratnam in "*That there might be equality*": *An examination of the biblical perspective on economic equality, and its missiological relevance* (unpublished dissertation, Ware: All Nations Christian College, 1998).

³⁷ As too, to be fair, does Rawls' conception of justice: "It is a mistake to believe that a just and good society must wait upon a high material standard of life." *A Theory of Justice* 290.

³⁸ 1 Timothy 5:10.

possessions.” (Luke 12:15). People can be impoverished by more than the lack of money. People can be socially and relationally impoverished. The poor identified in the Old Testament are typically the widow (relationally impoverished by the death of her husband), the orphan (relationally impoverished by the death of parent(s)) and the alien (relationally impoverished by separation from kin and culture)³⁹. Indeed, the Bible recognises that it is most often because of social and relational impoverishment than people become economically poor. For Western society, social justice would require a greater concern to ensure that all have adequate housing, proper nourishment, meaningful work, shared leisure time and leisure facilities, and appropriate education.⁴⁰

VI. The duty to do justice

"[I]n Hebrew thought [justice] is a concept of relation ... People are righteous when they meet the claims which others have on them by virtue of their particular relationships. Thus, ... the king is righteous when he fulfils his responsibilities as king towards his people. The servant is righteous when he obeys his master."⁴¹

What are the king's responsibilities towards his people? What are governments' responsibilities towards their citizens? "In God's order the State exists because of the basic social needs of people living together in society. God invests government with authority so that it can be the servant of all in furthering our common good."⁴² **Justice is power at the service of the powerless.**

The Apostle Paul in Romans 13:3-5 declares “do what is right and [the one in authority] will commend you for he is God's servant to do you good.” Implicit in the

³⁹ See, for example, Zechariah 7:8-12.

⁴⁰ It is perhaps a reflection both of the consistency of Christian insight and the intractability of the human condition that the above needs are largely the same as those identified by William Temple sixty years ago in *Christianity and Social Order* at 32-5, 86-7, 97.

⁴¹ James D.G. Dunn and Alan M. Suggate *The Justice of God: A Fresh Look at the Old Doctrine of Justification by Faith* (Carlisle: Paternoster, 1993) 32-37; see also W.J. Dumbrell *Covenant and Creation* (Carlisle: Paternoster, 1984, 1997) 13, 91, 123, 155, 205; and Michael Schluter in *Christian Perspectives on Law and Relationism* 1-2.

⁴² John Gladwin *The Good of the People: A Christian Reflection on Living with the Modern State* (Marshall Morgan and Scott, 1988) 62.

Pauline notion of the role of the State is the concept of the good, a concept which is missing from Modern Liberalism.⁴³

In place of an account of the good, Rawls offers a religion of justice. For him, at least in his earlier work, justice is God, and all must give priority to his ideal of justice over and above all their other convictions.⁴⁴ Although he has modified his stance in his more recent work, *Political Liberalism*⁴⁵, for Rawls justice remains the primary social virtue.

Michael Sandel critiques Rawls' reliance on justice in a world perilously short on other moral virtues: "Only in a universe empty of *telos*, ... is it possible to conceive a subject apart from and prior to its purposes and ends. Only a world ungoverned by a purposive order leaves principles of justice open to human construction and conceptions of the good to individual choice."⁴⁶ The impact of his critique is that "once it is conceded that our conceptions of the good are morally arbitrary, it becomes difficult to see why the highest of all (social) virtues should be the one that enables us to pursue these arbitrary conceptions 'as fully as circumstances permit.'"⁴⁷

Against the Rawlsian vision of unrelational human beings, existing in a world without purpose and able to construct a system of justice in their own image, the Christian vision is of human beings, made in the image of God, for relationship with God and relationship with one another, beings of inherent dignity and value, who should be free to labour and love. These are the good gifts of God to us both as individuals and as part of the human race. Justice is the exercise of power and authority in order to preserve and protect the good gifts of God, given as his common grace for all to enjoy in this lifetime whether or not they acknowledge his claim to their life. If justice is

⁴³ This is, of course, only one side of the coin. The other is the warning that "[the one in authority] does not bear the sword for nothing [for] he is God's servant, an agent of wrath to bring punishment on the wrongdoer."

⁴⁴ As Ian Leigh observes in "Towards a Christian Approach to Religious Liberty" in Paul Beaumont (ed.) *Christian Perspectives on Human Rights and Legal Philosophy* 36.

⁴⁵ John Rawls *Political Liberalism* (New York, 1993).

⁴⁶ Michael J. Sandel *Liberalism and the Limits of Justice* (2nd edn) 175.

⁴⁷ Michael J. Sandel *Liberalism and the Limits of Justice* (2nd edn) 167.

exercised as the expression of love in social organisation, then its claim to pre-eminence can be acknowledged.⁴⁸

David McILROY, M.A. (Cantab.), Mtr Dt (Toulouse), Barrister of the Inner Temple.

9th October 2001

⁴⁸ William Temple *Christianity and Social Order* 78.