

JUSTICE

An Ignatian Perspective

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The mission of the Society of Jesus today is the service of faith, of which the promotion of justice is an absolute requirement.¹

THE ABOVE QUOTATION is one of the clearest statements about the mission of the Society of Jesus in the post-Vatican II world. It is noteworthy, however, that the General Congregation does not propose an overarching definition of ‘justice’. There is good reason for this. It would be an act of *naïveté* or hubris to suggest that anyone could provide a simple solution to a question which has dogged philosophers, lawyers, theologians and others for millennia.

Nevertheless, since Jesuits are called to ‘promote justice’, we do well to give some thought to what it is that we are promoting. This article attempts to contribute to this conversation. It suggests some ideas from an Ignatian perspective about what justice might (or might not) be and how we would recognise the faith that does justice. It argues for a vision of justice-as-divine-love that is both biblical and founded in the *Spiritual Exercises*—especially the Contemplation to Attain Love (Exx 230–237). It should be noted from the start that this is *not* a discussion of natural law. It is assumed that law (whether natural or not) is an attempt to do justice. The question here is how one can know when justice is (or is not) being done.

Transactional Justice

While not attempting a general definition, most people would probably agree that justice has to do with ‘fairness’. Since fairness is about

¹ General Congregation 32, decree 4, n.2, in *Jesuit Life and Mission Today: The Decrees and Accompanying Documents of the 31st – 35th General Congregations of the Society of Jesus*, edited by John W. Padberg (St Louis: Institute of Jesuit Sources, 2009).



how people are treated this, in turn, implies some sort of distribution. Justice is concerned with ‘slicing up the cake’. The cake could be physical or notional, and relate to rights, risks, rewards, penalties, or tangible or intangible property. Whether A is given a prison sentence as a result of committing a crime, or whether B is awarded a contract, or whether country C allocates a part of its budget to international aid (and how much) are all questions of ‘justice’ as it is usually understood. This fundamental idea of distribution is exemplified in the personification of justice as wearing a blindfold and holding a pair of scales in order to measure out an impartial portion. Note that this is true of what is classically defined as ‘distributive justice’ (where the distribution is made by society or the group as a whole to individuals) as well as ‘commutative justice’ (where distributions are made between individuals).² An example of distributive justice would be how the state allocates resources. An example of commutative justice, on the other hand, would be what constitutes fair terms in a contract.

Traditional legal and theological definitions of justice have usually been static and transactional. By this, I mean two things:

² Thomas Aquinas, *Summa theologiae*, 2.2, q. 61.

- First, these definitions begin from the viewpoint of a state, judge or other third party attempting to make a specific distribution between two or more other parties (who could be countries, corporations or individuals). A separation between distributor and distributee is assumed. When we talk about justice, it usually goes without saying that we are trying to determine what is fair to *other* people.
- Secondly, this model of justice focuses on the *act of distribution*, rather than on the individuals concerned. Thus, a court may be faced with the question of what a party to divorce proceedings should be ordered to pay for the maintenance of his or her former spouse. The ongoing relationship between the parties might be relevant to the extent that it affects the amount to be paid (whether the spouse could support himself or herself on the proposed payout, for instance), but the primary focus is on the proposed order for payment.

Most, if not all, modern definitions of justice are transactional.³ As William Galston puts it, ‘Principles of justice are *reasons or criteria for assigning particular things* to particular individuals’.⁴ Statements of transactional justice are therefore couched in terms such as: ‘To each according to his or her ... [needs, deserts, ability to pay and so on]’. A good early example comes in the opening of the *Digest* (1.1) of the third-century AD Roman jurist Ulpian: ‘*Iustitia est constans et perpetua voluntas ius suum cuique tribuens*’ (‘justice is the constant and perpetual will to render to each their due’). This definition was taken up word for word by Aquinas.⁵ While the common law has not attempted to define substantive justice, its procedural ‘rules of natural justice’⁶ are clearly aimed at transactional justice in that they regulate the *act of allocation* (of rights, risk or goods) and attempt to separate distributor and distributee.⁷ Theories of justice grounded in economics are even

³ See, for example, Serge-Christophe Kolm, *Modern Theories of Justice* (Cambridge, Ma: MIT, 2002).

⁴ William Galston, *Justice and the Human Good* (Chicago: U. of Chicago P, 1980), 5 (*italics mine*).

⁵ Aquinas, *Summa theologiae*, 2.2. 58, 61.

⁶ These rules prohibit bias, in other words, require that the interests of distributor and distributee remain separate, and require that both sides of a dispute be heard.

⁷ While these date to mediaeval times, they have not always been evenly applied. *Ridge v. Baldwin* [1964] 4 AC 40 can probably be said to mark the start of consistent modern application of the doctrine.

more expressly transactional, since they deliberately set out to solve the question of distribution of resources (including intangible resources, such as rights).⁸

The Christian Context

A transactional approach to justice is quite understandable and, indeed, desirable in a secular legal context. Law, by its very nature, is framed with a view to dispute resolution. As a result, it is natural that it should focus on the issue at hand rather than attempting to address the broader relationship between the parties. Precedent plays an important role (particularly in common law systems) and a consistent application of principles with a claim to general validity is therefore important. Legal notions of justice, also, tend to be developed (or at least applied) by third-party judges dealing with specific cases. The judge, official or arbitrator in these cases is, by definition, a third-party distributor of transactional justice.

Given that justice is about fairness and, particularly, about fair distribution, the question which arises for the Christian is how transactional justice (with its emphasis on the *act* of distribution and separation of parties) fits with a Christian world-view that sees the ‘greatest commandments’ as love of God and love of neighbour.⁹ If love is the greatest commandment, then any Christian theory of justice unconnected with love seems somehow hollow or partial. After all, if love of God and neighbour is the benchmark for all Christian relations, any attempt to formulate rules for distribution must necessarily prescind from that love. Anything else would be to put the cart before the horse.

A number of Christian theorists have pointed the way in suggesting a Christian philosophical recognition of universal human rights as grounded in relationship.¹⁰ Clearly the distribution of rights is a necessary and prominent element of justice, and this is therefore an important step. Nevertheless, Christian discourse more usually regards ‘justice’ and love or mercy as opposites to be reconciled or, at the very

⁸ See, for example, Richard Posner, ‘The Economic Approach to Law’, *Texas Law Review*, 53 (1974–1975), 757 and classical Marxist legal theory.

⁹ Deuteronomy 6: 5; Leviticus 19: 18; Matthew 22: 37–40; Mark 12: 30–31; Luke 10: 27.

¹⁰ See, for example, the essays in *Christianity and Human Rights: Christians and the Struggle for Global Justice*, edited by Frederick Shepherd (Lanham: Lexington Books, 2009), part 3.

least, held in fruitful tension.¹¹ This is because ‘justice’ is often seen precisely as the ‘hollow’, transactional application of rules or principles and hence as opposed to, or in tension with, love.¹²

One partial exception to this view is that of Augustine, who defines justice as ‘*amorem Deo tantum servientem et ob hoc bene imperantem ceteris quae homini subiecta sunt*’ (‘love serving God only, and thus ruling well that which is subject to a person’).¹³ One might think from this that Augustine sees fairness (including fair distribution) as being somehow linked to love. Yet Augustine’s view of justice as obedient love plays down its distributive element. Indeed (in *De Trinitate*, 13.17), he, like Aquinas, sees just distribution only as the justice-as-punishment that is due to us. As a result, Augustine’s concept of just distribution is in tension with his concept of justice-as-mercy or love. It is for this reason that Augustine regards human justice as essentially passive (being justified by God) while divine justice is the act of justification.¹⁴

**Augustine
regards
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passive**

There is, however, a great deal of scriptural authority to support the proposition that love and justice are closely linked—both in the case of God and of humanity.¹⁵ These texts suggest that love and justice go together as something more than opposite (albeit necessary) extremes. Can love be integrated with justice, or must they always remain opposite poles to be set off against each other? If integration is to take place, what does this mean for transactional justice?

The Contemplation to Attain Love

I suggest that the germ of a solution to both these questions may be found in Ignatius’ *Spiritual Exercises* and, especially, in the Contemplation to Attain Love:

¹¹ See for example *Summa theologiae*, 1, q.21. For contemporary examples, see the contributions in *Doing Justice to Mercy: Religion, Law and Criminal Justice*, edited by Jonathan Rothchild, Matthew Boulton and Kevin Jung (Charlottesville: U. of Virginia P, 2007).

¹² Some of this suspicion of justice and ‘law’ may well be related to the tradition of Christian supersessionist reaction against the Torah and Judaism. This is too big a topic to be considered here: for an overview of the origins of supersessionism and Christian allegations of legalism in relation to Judaism, see for example Mary Boys, *Has God Only One Blessing? Judaism as a Source of Christian Self-Understanding* (Mahwah: Paulist, 2000).

¹³ Augustine, *Morals of the Catholic Church*, 1.25.

¹⁴ For a discussion, see *Augustine through the Ages*, edited by Allan Fitzgerald (Grand Rapids: Eerdmans, 1999), 482.

¹⁵ See, for example, Jeremiah 9:24; Hosea 2:19, 12:6; Micah 6:8; Luke 11:42.

[230] Note. It will be good to notice two things at the start. First: Love ought to find its expression in deeds rather than in words.

[231] Second: Love consists in mutual communication. That is to say, the lover gives and communicates to the loved one what they have, or something of what they have, or are able to give; and in turn the one loved does the same for the lover. Thus the one who possesses knowledge will give it to the one without it, and similarly with honour or wealth. Each gives to the other.

....

[233] Here it will be to ask for the interior knowledge of all the good I have received, so that acknowledging this with gratitude, I may be able to love and serve his Divine Majesty in everything.

[234] The first point is to bring to memory the benefits received ... pondering with deep affection ... how much [God] has given me of what he possesses, and further, how ... it is the Lord's wish ... to give me himself. Then I shall reflect within myself and consider what, in all reason and justice, I ought for my part to offer

[237] The fourth point, to see how all that is good and every gift descends from on high. Thus, my limited power descends from the supreme and infinite power above—and similarly with justice, goodness

Ignatius' concept of love (or at least its expression) is at once practical and intimately bound up with gift. Like justice, it appears connected with distribution. In fact, the idea of mutual exchange is very similar to the traditional concept of 'commutative justice' (as something which regulates interpersonal relations). Justice demands a return of ourselves to God in return for God's self-gift. Human justice, however, far from being different from God's justice or merely a passive response to it, actually echoes and in some way embodies it. By agreeing to respond to God in love, we become aware that 'our' qualities, including justice, are actually God's qualities. I suggest that this contemplation provides the basis for a love-based conception of human justice in partnership with God. What does this mean in practice?

Justice Integrated with Love

The Contemplation to Attain Love certainly suggests that justice and love are not opposing principles. Rather, justice both governs our

response in love and is a part of that response. This also allows for a new understanding of the ‘greatest and first commandment’ and why the ‘second is like it’ (Matthew 22:39). Our first principle of distribution is that we give all of ourselves to God in love. As God’s representatives, the second principle of distribution is that we also give all of ourselves to the other.

This is not to say that justice as a concept has been *replaced* by love. Justice is still a necessary concept: it is the specific province of the allocation of rights, risks or anything else. The question of how we slice the cake or balance the budget does not go away. Justice is still about answering this type of question. The universal basis for doing so is, however, love. Justice is, in other words, a particular *application* of love.

Impact on Transactional Justice

How then, does this idea of justice affect the transactional view?

First, our viewpoint is no longer that of an impersonal third party but of someone in an ongoing relationship both with the other and with God. We are not aloof like a judge assessing the claims of competing parties or the state determining how to balance its books. Instead, we are the repository of God’s gifts and in a loving relationship with God. We recognise, too, that we are in a loving relationship of the same quality with those around us. We are God’s representatives to them and they are God’s representatives to us.

There can therefore be no true separation between distributor and distributee: we are aware that each of us is loved by God and in the image of God, and that we act only out of love of God. Our point of reference has shifted: we no longer seek to impose a view of justice on others as an ‘impartial’ third party. Because we are called upon to love God first, the only permissible third party reference point is God’s.

We are also called upon to love each other as we love ourselves. We know that God loves us in our own right and not for the sake of our actions or qualities. It is this point of view that we are obliged to adopt in dealing with the other. This requires us to be empathetic enough to understand the wants, fears and needs of the other in the way that the other does, rather than through the lens of our own background and conditioning. While we can never understand the other as fully as God does, we know that at the least we must love

others (whether we understand them or not) for their own sakes and not as a means to some other end.¹⁶ The best interests and desires of God and the other are therefore foremost in our own decision-making. This means that we cannot pretend indifference to the effects of our actions on the other. Any decisions about distribution (whether of rights, property or anything else) must flow out of this love for God and for each affected individual as well as the group.

Secondly, the focus is no longer on the act of distribution, but on the relationship between us. It follows that utilitarian formulations of justice can have no place in this world-view. There can be no forced sacrifice of one individual's needs to those of another. Likewise, because this conception of justice is based on love, it is not benchmarked against self-interest (enlightened or otherwise), nor is it compelled to assume a Rawlsian 'veil of ignorance'¹⁷ in order to decide what people may or may not deem just.

It also means that there is no need for rigid rules of the kind required by transactional justice. 'To each according to ...' is neither a necessary nor desirable formulation, since what is appropriate or

required will be decided by the facts and by the overarching relationship of love between the distributor and distributee reflecting God's love for both.

While issues of transactional justice may follow on from this, they are secondary concerns which flow out of the primary relationship of love. We may well need to make hard choices about how to employ limited funds or time, or how to respond to some hurt done to us or to the group. In doing so, however,



¹⁶ This implies a Kantian 'categorical imperative', although founded on love, rather than reason.

¹⁷ John Rawls, *A Theory of Justice* (Oxford: Oxford UP, 1971). Rawls' 'veil of ignorance' is a notional pre-existing state by which the participants in his hypothetical society are prohibited from knowing what positions they will occupy in society (in order to ensure that they allocate advantages and disadvantages equally).

it does not help to regard the demands of love as somehow opposed to those of justice. Justice itself requires that any decision be made out of a genuine love, not only for God, but also for all those (ourselves included) who may be affected by the decision.

Ignatian Discernment

I suggest that Ignatian ‘indifference’ in decision-making can be seen as an application of this vision of justice. In Ignatius’ view, the basis for decision-making is neither the nature of the decision nor the existing relationship between the parties. Instead it is the praise and glory of God and the purpose for which we are created (Exx 179). Given that each individual is created for the same purpose and by the same God (Exx 23), it follows that indifference mandates a decision made, not only out of love for God, but also out of love of others as an expression of the love for God.

The Rules for Almsgiving (Exx 337–344) show how Ignatius saw this working in a practical justice-as-distribution setting. Exx 338 is especially instructive here:

Firstly, the love which moves me and makes me give the alms should descend from above, from the love of God our Lord; so I must first of all feel within myself that the love, greater or lesser, that I have for these people is for God and that in my motive for loving them more, God must shine forth.

This clearly illustrates Ignatius’ view of the love of God ‘shining forth’ into the love of others and making transactional decisions themselves secondary to, and based on, this love for God and other.

The Core of Faith

By definition, a conception of justice based on love is not designed to be legally enforceable. It assumes a certain disposition on the part of the person adopting it. Love cannot be compelled. For this reason, the view of justice espoused here is unlikely to replace the transactional paradigm in the practice of law, for example. Indeed, an effectively ruleless system of justice becomes rank injustice if it is not underpinned by love.

It is, however, a useful starting point for religious life, and apostolic religious life in particular. Returning to Decree 4 of General

Congregation 32, with which this article began, I suggest that serving this concept of justice is, indeed, ‘an absolute requirement’ for the promotion of faith. It is, in fact, the core of Christian faith.

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