

They are often not found to be suitable for probation. The article raises a social justice issue of the balance between society's demands for retribution and the vulnerable person's right for compassionate rehabilitation.

Justice is a meta-theoretical construct that is viewed from many perspectives. The contributors to this collection demonstrate how to combine practice intervention and research to ameliorate social-oppressive structures to bring about just social interactions. The Center provides financial support for partnerships of university faculty, students, and community agencies to collaborate in social justice innovative programs so that "... none deny or delay, right or justice."

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Whose Justice? An Examination of Nine Models of Justice

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SUMMARY. Formal definitions of justice calling us to "render the other their due" are elastic, given shape by our grasp of the moral bonds connecting persons and the relationship between this virtue and other moral habits, affections, or the concrete experience of our lives. This paper, written for a conference on education to justice in Jesuit Universities, examines nine theories of justice (Utilitarianism, Libertarianism, Social Contract, Complex Equality, a Feminist Ethics of Care, Christian Realism, Catholic Social Thought, Liberation Theology, and a Biblical notion of justice) in light of their perspective on the rights and duties persons have to one another and the relationship of justice to compassion and the affections. *[Article copies available for a fee from The Haworth Document Delivery Service: 1-800-HAWORTH. E-mail address: <docdelivery@haworthpress.com> Website: <http://www.HaworthPress.com> © 2003 by The Haworth Press, Inc. All rights reserved.]*

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The notions of right and justice are still far from clear despite the fact that the clearest writers have written about them.

-Leibniz

American readers picking up their first Russian novel often feel like they have wandered off into *terra incognita*, and inevitably a good deal of their initial confusion results from the author's practice of assigning several different names to each of the dozens of characters in these narratives. What the patient and insightful reader soon discovers, however, is that in Russian literature this bounty of appellations and affectionate diminutives is not merely an overkill of synonyms for the individual character, but a way of identifying a host of relationships connecting the ones naming and the one named. And so the confusion resulting from the loss of a single name is eventually replaced by a more complex and nuanced appreciation of characters shaped by a weave of relationships. We come to know who people are by knowing who they are to (many) others.

With justice we seem to have the opposite problem of that encountered in Russian novels, a single term about which we continue to experience a great deal of confusion and disagreement, in spite of the fact that "the clearest writers" have addressed the question tirelessly for centuries. For although nearly all would agree that justice obliges us to render the other their "due," there is no broad consensus about what that "due" is, or even about the specific criteria (need, merit, contribution, talent, or some mixture thereof) we should use in determining the just share or desserts to be apportioned to various persons or communities. Indeed, there is not even agreement about whether liberty, equality, solidarity or the common good is the primary cornerstone on which the edifice of justice is to be constructed.

Still, it is possible that the ultimate source of our confusion about justice lies in deeper disagreements about some fundamental relationships. For justice is not merely about our duty to render the other their due. It is primarily about being in "right relationship" with others. Thus, our understanding of justice is likely to be shaped by what we think "right relationships" between and among persons and communities are, or ought to be, and indeed what rights and/or duties we might have in relation to these others, particularly the poor and oppressed. At the same time, our different judgments about justice are also influenced by how we understand the relationship between this virtue and other moral habits and affections, and whether we see justice as embodied in universal abstract principles or discoverable only in the weave and context of human history.

As members of Jesuit Universities mandated to educate our constituencies for justice, we are often painfully aware of the complexity and ambiguity of the task before us, needing as we do not only to persuade others of the importance of a faith that does justice, but also to determine exactly what the shape and identity of this justice might be. With a number of different and often conflicting theories and approaches competing for the title of legitimate claimant to the throne, which or whose justice are we to choose or espouse? Indeed, does any single theory or approach offer a satisfying answer to the question—"What is justice?"—or should we seek some composite fashioned of the best insights of these various approaches?

In preparing the ground for our common reflections on these questions this essay will follow a two-step process. First, there will be a very brief overview of several differing theories or approaches to justice, identifying some of the critical points of each. (Seven of the theories outlined here are drawn from Lebacqz [1986] and Walzer [1983]. The other two include a feminist ethic of care and the biblical notion of *sedatquah*.) Second, the bulk of the essay will investigate the ways in which these various theories and approaches understand the two sets of relations discussed above. That is, we will examine just how each approach names both the ways persons and communities are related to one another, and the ways in which justice is related to other virtues, to our affections, and to our historical context.

A REVIEW OF NINE VOICES

Utilitarianism

Utilitarians like Jeremy Bentham and John Stuart Mill argue that the right or just choice is that which produces the greatest good. For them and their colleagues utility, which "holds that actions are right in proportion as they tend to promote happiness" (Mill, 1957, p. 10), is the ultimate moral norm, and justice is not a separate or equal principle, but simply a part of utility.

It is not that concerns about justice are unimportant for Utilitarians, or that they do not subscribe to notions of individual rights. Indeed, Mill argues that justice refers to those moral duties of ours, which entitle others to make claims against us. Still, rules about justice, which tend to arise in situations where there are competing claims (usually regarding property) and limited resources, are ultimately valid not if they protect the inherent rights or claims of individuals but if they contribute to increasing overall happiness and security by preserving the good order of society. As Mill argues, "Justice is a name for certain moral requirements, which, regarded collectively, stand higher in the scale of

social utility, and are therefore of more paramount obligation than any others" (Mill, 1957, p. 78). As a result, rights will be protected as long as they preserve the greater good, and can be overridden or ignored when they conflict with the principle of utility. Thus, if it creates more happiness, one may break a promise or kill an innocent person.

Libertarianism

The cornerstone principle for the followers of Herbert Spencer and John Locke, on the other hand, is individual liberty. While Spencerian libertarians see liberty as the basic human right from which all other rights are derived and Lockean libertarians contend that liberty (i.e., freedom from constraint) is that necessary condition for the protection of basic rights to life and property, both agree that each person ought to have as much liberty as would be possible without violating the same freedom in others (Sierba, 1998, pp. 41-44).

As a result of this emphasis on the right of individual persons to be as free from constraint as possible, contemporary Libertarians like Robert Nozick (1974) support a minimal (i.e., *laissez faire*) state responsible primarily for protecting the security (usually life, liberty and property) of individuals pursuing their own separate (normally economic) interests. Arguing against a welfare state which redistributes wealth or opportunities to the poor or marginalized, Nozick contends that the needy have no moral claim on the surplus wealth of the rich, and that enforced redistribution is a form of theft, violating the Kantian prohibition of the use of some persons as a means to serve others. He further argues that a right to property is based exclusively on the justice of the original acquisition or subsequent exchanges, which is to be measured by the criteria of commutative justice, i.e., the mutual freedom of both parties (Nozick, 1974, pp. 130-170).

Social Contract

Influenced by the social contract theories of Locke and Rousseau, John Rawls has attempted to formulate a theory of "justice as fairness" which takes the rights of individual persons seriously while providing for a minimal protection of the poor and marginalized in society (Rawls, 1971). Rawls begins by imagining a situation in which truly fair and equitable principles of justice might be arrived at, his so-called "original position." Here Rawls envisions a sufficiently large group of intelligent and self-interested (but not envious) individuals assigned the design of guidelines for negotiating conflicts without being told what their own role or status will be once the game begins.

According to Rawls, these intelligent, rational and mutually disinterested parties would agree to two basic principles of justice:

1. the principle of equal liberty, which would assure each person an equal right to the greatest amount of the most basic liberties, and
2. the difference principle, which would allow for social and economic inequalities only when they result in an improved situation for the poor and marginalized.

Complex Equality

Michael Walzer (1983) offers an egalitarian vision of justice, which does not seek to eliminate all differences, but to prevent domination and tyranny. According to Walzer, full equality cannot be achieved without unduly repressing freedom and granting a monopoly of political power to the state. Still, a "complex equality" which respects the diversity of social goods, spheres of human activity, and centers and standards for decision making can effectively prevent the sort of totalitarian monopolies that allow small groups of persons to gain long term dominance over a wide field of human experience.

Arguing that "the principles of justice are themselves pluralistic in form, (and) that different social goods ought to be distributed for different reasons, in accordance with different procedures, (and) by different agents," Walzer (1983, p. 6) contends that a commitment to protect the identity of and boundaries between these various spheres will preserve a complex equality and prevent powerful people from violating standards, usurping goods, and invading spheres. In this way, persons with a social good like wealth will not be able to translate their advantage in the sphere of economics into a similar monopoly in politics, education, or health care. Thus for Walzer, justice is better preserved by a decentralized latticework of autonomous goods, authorities and standards than by any single principle applied universally.

A Feminist Ethic of Care

Carol Gilligan's *In Another Voice* (1982) claimed to discover an alternate and distinctly feminine ethic of care counterbalancing the Kantian notions of justice informing Kohlberg's model of moral development. And although subsequent feminist reflection has largely rejected either a simple identification of women with an ethic of care or a sharp polarity separating care and justice, feminist critics (Baier, 1995) continue to argue that Gilligan's insights point to some significant deficiencies in traditional Kantian reflections on justice, and raise serious questions about the hegemony of justice as what Rawls has called "the first virtue of social institutions."

In general, feminist criticism has been directed at the individualism, rationalism and abstractness characterizing much of Western philosophical thought on justice (Clement, 1996). Rejecting the notion that justice refers to the duty of independent, equal and largely self-interested parties to respect the rights of other individuals with competing claims, feminists call for a fuller grasp of the relational, social and interdependent character of persons, and for a recognition of the wider obligations of care and compassion for those in need. At the same time, such authors note the epistemological importance of concrete moral experience and an enriched sense of moral passions and affections.

Christian Realism

In the 1930s and '40s theological realists like John Bennett and Reinhold Niebuhr held that love was the highest principle of Christian ethics, but that the pervasive presence of sin in the world made the ideal of sacrificial love embodied in the cross impossible as the basis of a realistic social ethic (Atherton, 1994). Instead, Niebuhr argued that Christians were obliged to work for justice, which took into account the presence of sin and competing self-interests (particularly between groups), and provided the best possible balance of those interests in a sinful world. This it did largely by struggling to increase the power of the victims of injustice and working for a balance of power in both political and economic realms. Indeed, for Niebuhr achieving equal justice often involved struggle and coercion, pressing persons or groups to surrender sinfully unjust advantages, abandon oppressive structures, and share power in a more equitable fashion.

Still, Niebuhr argues that Christians cannot ignore love's siren call, for every manifestation or rule of justice is judged and called to perfection by the self-sacrificing love of Christ. Thus, Niebuhr's justice is always a work in progress, being summoned to that perfect community of friends which is love.

Catholic Social Thought

Recent Catholic teaching has described "action on behalf of justice" as a "constitutive dimension" of the church's mission in the world. It has also called Christians and others of good will to uncover, confront and transform oppressive, impoverishing, and decidedly sinful economic, political and social structures by standing in solidarity with and making a preferential option for the poor and marginalized everywhere (Hollenbach, 1977).

Affirming both the inviolable dignity and the social character of human persons, as well as the social end of all created goods, Catholic Social Thought has been increasingly critical of political and economic systems that tolerate a grow-

ing gap between the rich and poor and the resulting oppression and marginalization of the latter. Arguing that real justice and the common good calls for the full and integral development of persons and communities everywhere, recent teachings note that such justice depends upon the recognition and protection of an expansive network of rights and responsibilities. These include not merely those civil and political liberties traditionally defended in Libertarian and Kantian theories, but also a broad range of the social, cultural and economic goods needed for a full and fair participation in every social, political, economic and cultural structure. On top of this, there is a profound commitment to address present injustices by making a preferential option for the poor.

Liberation Theology

Calling not just for a preferential option for the poor, but for an epistemological privilege for those living in the margins, theologians like Gustavo Gutierrez and Jose Porfirio Miranda argue that justice requires the ongoing liberation of the poor from all forms of economic, cultural and political oppression. This process begins with "praxis," with the poor (and those in solidarity with them) making a commitment to liberation, engaging and reflecting upon their lived experience of poverty and marginalization, and analyzing that experience in a critical dialogue that uncovers both the structural oppression and injustice causing that poverty and a God who calls them to liberation (Atherton, 1994, pp. 35-39).

Emphasizing more strongly than Catholic Social Thought the need for a confrontational struggle against sinful (largely capitalist) social structures, Miranda and other liberation theologians decry the present maldistribution of wealth and the resulting gap between rich and poor as a systemic injustice and a form of institutional theft and violence. Furthermore, turning to Scripture they find a liberating God who sides with the oppressed and can only be known through entering into the poor's struggle for justice, a struggle which is seen as an integral part of the history of salvation (Lebacqz, 1986, pp. 103-109).

Biblical Justice

Contemporary biblical scholarship offers a number of insights regarding the notion of justice found in Scripture (Donahue, 1987; Gardner, 1995; Lebacqz, 1987). Throughout the Old Testament justice is seen as a covenantal virtue calling the Hebrews to imitate God's liberating and merciful justice by being faithful in their relationships to Yahweh and their neighbor, by exercising responsible stewardship of the shared inheritance of the land, and in particular by showing concern for those "little ones" in the margins. Indeed, the measure of

On the other hand, Feminists, Catholic Social Thought, and contemporary biblical scholarship regarding justice all tend to stress the social character of persons. By emphasizing the moral obligations of care, solidarity and covenant these three voices argue for a more relational understanding of persons as beings who are born into, develop within, and to a large degree are constituted by a dynamic and interdependent fabric of interpersonal and social relations (Donahue, 1987, pp. 68-78).

As a result, Feminist authors are deeply critical of Kantian notions of autonomy, which fail to take seriously the role of care in shaping the moral development of persons or in defining what it means to be a person within the myriad of (often unequal) relationships of one's life (Clement, 1996, pp. 110-114). At the same time Catholic Social Thought, while affirming the inviolable dignity of the human person and the priority of persons and smaller natural communities over larger and later groups like the state, argues that this dignity is only realizable within community and that all persons are called to acknowledge and be faithful to the solidarity they share as fellow children of God (U.S. Catholic Bishops, 1986, pp. 574-575; John Paul II, 1987, pp. 421-424).

When examining the web of relationships shaping human experience Feminists, Liberation Theologians and Christian Realists are alike in underscoring the distorted, oppressive and/or sinful shape of these ties, and in calling for a liberating struggle confronting and undoing various forms of domination and marginalization. For these groups the "original position," or at least the context out of which one formulates notions and principles of justice is one in which the moral bonds connecting persons and communities have been twisted by injustice, alienation, dependence, and tyranny (Lebacqz, 1986, pp. 101-103; Lebacqz, 1987, pp. 10-37).

As a result of this embedded and sinful disorder, these three voices tend to recognize the need not simply to negotiate the competing claims of equals, but to be engaged in an ongoing struggle to establish and protect the rights of victims of systemic injustice and oppression. At least for Liberation Theologians and Feminists persons are in relationships and called to wholeness through these moral bonds, but both these persons and their relationships are so profoundly misshapen by sin and injustice that it is necessary not merely to contain the unjust claims of those who oppress, but to fundamentally reform and readdress structures and relations.

OF RIGHTS AND DUTIES

Not surprisingly, diverse understandings of what constitutes right relations among various persons and communities will naturally

the Hebrews' justice or righteousness before God was primarily to be found in their compassionate remembrance and protection of the widow, orphan and alien. Thus in practices like gleaning and almsgiving, and in the economic readjustments of the sabbatical and jubilee year covenantal justice not only ensured that the poor were not permanently overwhelmed or disenfranchised by their ill fortune, but also that the Hebrew community was holy and righteous in God's eyes.

So too in the New Testament Jesus proclaims liberation to those in the margins, stands in solidarity with the poor and victimized of every sort, and confronts economic, political and religious structures oppressing and alienating the poor and powerless. Likewise, his life and word challenge the community of his disciples to practice a compassionate justice which sides with the poor and seeks liberation from every form of oppression (Kammer, 1991, pp. 41-59).

Right Relations Among Persons and Communities

Mill and other Utilitarians presume a basic equality between persons, noting that utility is to be applied with complete impartiality, and that "one person's happiness . . . is (to be) counted for exactly as much as another's" (Mill, 1957, p. 76). At the same time, they recognize a certain amount of connection between persons, noting that individuals may make justice claims on others to act or refrain from acting in different ways.

The problem, however, for most critics is that utility seems to allow an increased aggregate happiness of the many to override any individual rights or concerns, rendering the person completely secondary to the greater good of the community.

Both Libertarians like Nozick and Social Contract theorists like Rawls seek to defend persons against being swallowed up in a concern for the greater good by giving a lexical priority to individuals and certain basic liberties ascribed to them. For each of these authors the starting point is not the community or the state, but a Kantian notion of equal, independent, rational and largely self-interested individuals needing to find a just manner of negotiating competing claims for a limited set of goods and resources.

Committed to defending the freedom of the individual and articulating a set of objective and universally applicable justice claims, Nozick, Rawls and others offer a minimalist anthropology in which persons are abstracted from the contextual, historical and affective ties, which connect them to a variety of spheres. The result is an intrinsicist vision of the individual focussing on freedom and rationality, and (many would argue) presuming a degree of equality and voluntariness, which is not always characteristic of human relationships (Baier, 1995, pp. 54-56).

total of those conditions of social living whereby (persons) are enabled to achieve their own integral perfection more fully and more easily" (John XXIII, 1963, p. 140).

Also, while earlier Catholic Social Thought seemed to support a liberal defense of private property as a fundamental human right, and portrayed the obligation of the wealthy to provide for the basic needs of the poor as an unenforceable duty of charity only, more recent teachings have consistently pointed to the priority of the social end or universal purpose of all created goods, and been deeply critical of economic arrangements which deprive large numbers of persons to access to basic goods and/or prevent their full participation and development (Leo XIII, 1891, pp. 22-23; Paul VI, 1967, p. 245).

Liberation theologians go further to argue that in a world deformed by systemic oppression a right to development is insufficient, and that there is a duty for both the oppressed and their oppressors to work actively for the liberation of all the poor and marginalized from every type of alienation and marginalization. They are also profoundly critical of liberal assumptions about the rights of private property, and in direct refutation of thinkers like Nozick describe the present maldistribution as a systemic injustice and a form of theft. Further, they see the obligations of the oppressed as distinct from their oppressors. The first are to "resist and repudiate" the structural injustices in which they are imprisoned, while the latter need to "recognize, repent, and make reparation for" their participation in structural injustices (Lebacqz, 1987, pp. 86-120).

Finally, a Feminist ethic of care rejects an unbalanced stress on personal autonomy, and argues that within the lifelong network of relationships in which persons find themselves bound and committed to others, often to those in great need, it makes little sense to describe the moral bonds tying us to others primarily in terms of rights and liberties (Smith, 1987). Such moral minimalism ignores the frailty and needs of large segments of the community (and indeed of all persons at some point), allows those who take on caretaker roles to shoulder an unfair burden of the full costs of social life, and fails to provide sufficient capital for a rich common life (Baier, 1995, pp. 52-57; Clement, 1996, pp. 110-114).

DUTIES TO THE POOR

Given the minimalist assumptions Libertarians make about the social ties and duties binding individuals to others, as well as their notion that property rights are grounded in claims flowing from commutative and not distributive justice, it should come as no surprise that Nozick and others deny that the poor or needy have any intrinsic justice claims on the well off (though poverty re-

result in differing grasps of the moral claims that such parties can make on one another. Thus, while each approach to justice makes room for some recognition of human rights, the specific content and shape of these rights is quite varied.

In contending that justice refers to those strict moral obligations which persons have to one another, Mill acknowledges the presence of individual rights, but refuses to give them equal status with utility and, at least in the eyes of most critics of Utilitarianism, fails to provide for their sufficient protection (Lebacqz, 1986, pp. 20-22).

Generally, Libertarians and Social Contract theorists have supported a liberal notion of human rights, focussing primarily or exclusively on those civil and political liberties protecting individual persons from constraint, interference or harm. Thus, the basic rights to life, liberty and property defended by Locke are not seen as claims entitling persons to receive the basic goods or services which would be necessary to sustain life, or to be given a sufficient amount or fair share of property. Nor would such rights entitle persons to equal access to goods and services, or even to an equal opportunity to positions, resources or wealth. Instead, what is guaranteed is that persons have a right to be protected from others who would attack their lives, liberty or the property they already possess—presupposing that it has been fairly acquired (Sterba, 1998, pp. 41-44). Indeed, characteristic of a liberal understanding of human rights is an elevation of private property (which might well be seen as a social or economic good and not a fundamental liberty) to the status of a basic right (Sterba, 1998, pp. 53-55).

Particularly in Pope John XXIII's *Peace on Earth* and the 1971 Synod Bishops' *Justice in the World* Catholic Social Thought defends an expansive understanding of human rights, one embracing both civil and political liberties as well as a broad spectrum of social and economic goods (John XXIII, 1963, pp. 132-137; World Synod of Bishops, 1971, pp. 290-291). Arguing that human rights are "the minimum conditions for life in community," and the chief guarantee for the preservation of the common good, contemporary Catholic teachings affirm that all persons and peoples have a right to

1. what is needed to live,
2. what is required for their full and fair participation in every social structure, and
3. all that is requisite for their authentic and integral development (Thompson, 1997, pp. 94-97).

Further, as members of local, national and global societies, all persons and communities should recognize and respect a full range of human rights and actively contribute to the building up a common good which "embraces the sum

sulting from an unjust acquisition or exchange would cry out for restitution). Accepting that it might be charitable or meritorious to share one's bounty with those suffering from chronic want, Libertarians see such generosity as completely voluntary, and reject the notion that justice demands this behavior (Sierba, 1998, pp. 42-43).

Rawls, on the other hand, provides for a minimal protection of society's weakest members through his "difference principle," which demands that "social and economic inequalities are to be arranged so that they are both: (a) to the greatest benefit to the least advantaged . . . and (b) attached to offices and positions open to all under conditions of fair equality of opportunity" (Rawls, 1971, p. 302). The grounds for this duty to the poor, however, is not found in a moral bond to those in the margins, but in Rawls' argument that rational self-interested individuals in his "original position" would want some insurance against being harmed or permanently disenfranchised by any gap between rich and poor (Lebacqz, 1986, p. 75).

As we have already seen, Catholic Social Teaching has repeatedly called for a "preferential option for the poor." Based on a recognition of (1) the solidarity all persons are called to by virtue of their shared humanity and common dignity as fellow children of God, (2) the desperate need of millions upon millions of the world's poor, oppressed and marginalized as they are by sinful social structures, and (3) the Bible's covenantal mandate to show concern for the *anawim* (God's little ones), Catholic Social Thought acknowledges a moral obligation to stand in solidarity with and become advocates for the poor (U.S. Catholic Bishops, 1986, pp. 599-601; Dorr, 1992, pp. 1-11). In the concrete this "option for the poor" demands not simply a sharing of one's abundance, but also whatever changes in personal lifestyles and social and economic priorities would be consistent with a commitment to ensure the full participation and development of poor peoples everywhere.

Liberation Theologians go on to argue that the poor themselves have a special knowledge about justice (an epistemological privilege), gleaned from their immediate and chronic experience of structural injustices of every sort, and that it is a committed immersion in and reflection on this experience of oppression and marginalization—and not some abstract notion of a just community of equals—which is to be the starting point for any real grasp of justice. They further contend that in the struggle for justice the poor are not merely to be seen as the objects of solidarity or charity, but as active agents in the processes of constructing a just society (Hennelly, 1994, pp. 16-34).

A moral duty to attend to those in need is a critical element of a Feminist ethic of care, which rejects a paradigm understanding justice primarily as concerning the obligations of substantially independent, self-interested and equal parties who have voluntarily entered into mutual relationships. By attending to

the shape of so many of the intimate and familial relationships in which parents and other guardians are called to care for the weak and sick, a number of Feminist writers suggest that the duty to care for others, to come to their aid and attend to them, is a constitutive element of what it means to be moral (or just, in a wider sense), and that this duty to care applies to both the private and public realms (Clement, 1996; Tronto, 1995).

JUSTICE AND OTHER VIRTUES

Plato (*The Republic*, IV, p. 433) argues that justice is supreme among all other virtues. Aristotle (*Ethics*, V, p. 11306) describes it as the single virtue directed to the other, and—as we have already noted—Rawls (1971, p. 3) notes that it is "the first virtue of social institutions." Nonetheless, there is some significant disagreement about whether justice is indeed the *only* social virtue, or whether the moral duties generated by this virtue adequately describe the full range of obligations persons and communities have to one another. Specifically, it is the relationship between justice and compassion (or care, love, mercy, or benevolence), which concerns us. Is compassion a secondary, voluntary virtue reserved to the domestic and religious realms, or does it represent a constitutive element of true justice? Indeed, can there be authentic justice without some form of caring?

Both Mill and Nozick make a rather sharp delineation between justice and charity, seeing the first as concerned with those issues where persons can make actual moral claims on others, where parties have defined rights that are not to be violated. As previously noted, individuals may choose of their own volition to do more than is required by justice, and for Nozick that more would include acts of charity and benevolence in response to the needs and sufferings of others. However, such deeds are beyond the realm of justice.

Reinhold Niebuhr's grasp of the relation between love and justice is a good deal more complex, even somewhat ambiguous. As noted above, Niebuhr (1964, pp. 73, 244) believed that the supreme command and highest principle of Christian morality was love, particularly as it was embodied in the self-sacrificing identification with others found in the cross. At the same time he and Bennett argued that human sinfulness had so tainted persons and communities that Christian love could not be achieved in the public realm, and that justice—which took into account sinful self-interest—was to be the guide there. Still, every concrete form of justice was seen as falling short of the ideal of genuine human community, and Niebuhr himself argued that "justice that is only justice is less than justice" (Robertson, 1976, p. 32). Thus, while sin made

love untenable as a social norm, every principle or manifestation of justice needed to be critiqued in light of love's command.

In both Scripture and Catholic Social Teaching authentic justice is not seen as being in polar opposition to love, but as shot through and through with compassion. Contemporary biblical scholarship affirms that for the ancient Hebrews the justice of God was not sharply contrasted with other divine virtues like loving mercy and covenantal fidelity, but revealed in saving acts of mercy and compassion (Donahue, 1987, pp. 69, 71-78). At the same time, while early documents like Leo XIII's *The Condition of Labor* reflect a sharp delineation between the duties of justice and charity regarding property, contemporary Catholic Social Thought increasingly argues that "Christian love of neighbor and justice cannot be separated" (Leo XIII, 1891; Henriot, DeBerti & Schultheis, 1989, pp. 19-21). "For love implies an absolute demand of justice, namely recognition of the dignity and rights of one's neighbor. (And) justice attains its inner fullness only in love" (World Synod of Bishops, 1971, p. 293).

Although some early Feminist reflections on care echoed Gilligan's initial polarization of justice and care as representing two separate moral voices, most later authors have tended to reject this approach. Instead, a number of Feminist critics have suggested that any fully adequate description of moral experience will need to incorporate concerns for both justice and care (giving lexical priority to neither). Indeed, a vision of justice that fails to attend to care offers a truncated vision of human persons and the network of moral ties that bind them to each other and larger communities. At the same time an ethic of care which fails to attend to justice concerns like mutuality runs the risk of allowing all sorts of harm in the name of love, or of failing to respect the legitimate needs of those beyond the spheres of family and friendship (Friedman, 1995; Clement, 1996, pp. 110-122; Gudorf, 1987).

JUSTICE AND AFFECTIONS

Traditionally, liberal and Kantian notions of justice have underscored not merely the autonomy of persons, but also their rationality, and sought to describe justice as that "cold virtue" which does not depend on (or become clouded by) the affections and attachments of our ties to friends, family or compatriots, but is instead based on rational choice. For Rawls, the principles of justice "are the principles that free and rational (italics added) persons concerned to further their own interests would accept" (Rawls, 1971, p. 11).

In general moral theorists as diverse as Mill, Nozick and Rawls have focused on rationality as the basis for their theories of justice out of a concern that the emotions tend to impede attempts to arrive at an objective, universal

and therefore accurate description of the moral duties and rights of persons and communities. Rational thought, stripped of the biases and prejudices of sentiment, is the only way of human knowing that can be trusted to arrive at an adequate understanding of reality (Callahan, 1991, pp. 95-99).

While natural moral law reasoning tended to be the cornerstone of earlier Catholic Social Teachings on justice, "in recent decades this teaching has been increasingly shaped by the primacy of love." This shift has meant not only a growing recognition that love is a constitutive element of authentic justice, but also that compassion provides both an insight into and a resource for meeting the demands of justice (Henriot et al., 1989, pp. 18-19). As the U.S. Bishops note in their economic pastoral, "unlike the other wayfarers who look on the (dying) man and pass by," the Samaritan in Luke's parable "was moved by compassion at the sight" and came to this stranger's aid (U.S. Catholic Bishops, 1986, p. 589).

The strongest criticism of reason's hegemony, however, comes from Feminist authors, who, while admitting that errant and negative feelings can sometimes impede the processes of discovering and/or doing what is just, note that a reason sterilized of feelings has its own dangers (O'Connor, 1987, pp. 277-281; Callahan, 1991, pp. 127-134). For reason unschooled by affections of compassion, empathy and mercy not only fails to provide the motivation for just actions, but also dismisses an important way of knowing about the world, one well grounded in the rich fabric of concrete experience. As a result, such a narrow rationalism often pays too scant attention to the actual suffering and needs of others, and ends up overlooking or undervaluing the claims of those in need. A rationality, which seeks to step back from the maelstrom of emotions, needs to be careful of becoming indifferent to the cries of injustice.

At the same time certain Feminist (and other) authors are quick to point out that the very capacity of persons to fulfill the duties of critical roles as parents, friends, or spouses, or indeed to grow into morally mature adults depends ultimately on their ability to give and receive love. Unlike Kant, these authors argue that the richness and health of people's emotive life is an essential element of their capacity to be just. Mary Shelley, it would seem, is not alone in warning that persons become monsters without love (Held, 1995; O'Connell, 1998, pp. 65-86).

JUSTICE AND HISTORY

The Utilitarians, Libertarians and Social Contract theorists we have examined are alike in that each has attempted to develop a comprehensive, coherent, consistent and relatively simple theory of justice or moral rightness, one seek-

ing to abstract from the inconsistencies and varieties of human experience to some compact set of universal and objectively verifiable principles. Still, while the advantages and desirability of such an approach seems self-evident, not all are in agreement that a theory consisting of "universal moral formulae and the theoretical justification of these" provides an adequate understanding of either the rich texture of moral experience or the varied demands of justice.

Niebuhr, who argues that reason itself is not immune to the distortion of sin, warns that human understanding is always impeded by bias, and that real objectivity is unobtainable. Indeed, he notes that the presumption of such objectivity, or claim to be in the possession of the real or true perspective, is itself a form of sinful idolatry against which persons and communities need to be eternally vigilant (and repentant). At the same time, given humanity's immersion in a history shaped by sin, Niebuhr (1964, p. 284) contends that each form and principle of justice is itself also a kind of injustice, and thus in constant need of reform. There can, then, be no absolute or universal standards of justice (Roberts, 1976, p. 32).

As noted previously, Michael Walzer's brand of egalitarianism rejects the possibility of a single criterion for distributive justice, arguing "the principles of justice are themselves pluralistic in form." According to Walzer, justice is relative to social meanings, and persons are not able to discover what others are due outside the larger social context and matrix of social meanings. Thus, Walzer (1983, pp. 312-316) argues that an adequate understanding of the demands of justice must be grounded in an understanding of the history, social context and sphere in which persons find themselves.

Feminist authors critique the abstractness and universality of Kantian theories of justice for providing insufficient attention to the shape of concrete experience, and in particular for ignoring or overlooking the specific and distinctive moral experience of women and others in the margins. Arguing for a more inductive approach to moral analysis, Feminist authors have tended to pay closer attention to the contextual and historical shape of human experience, and to the diverse spheres and relationships in which persons are called to be just. Thus, the moral duties and claims of parents, spouses, family members, loved ones, friends and other intimates, as well as the specific shape of these relationships inform and balance more abstract and theoretical notions of justice (Urban Walker, 1995).

Liberation Theologians have also tended to stress an inductive approach to justice, one which begins by engaging and reflecting on the concrete experience of injustice, not from a neutral or objective viewpoint, but from the perspective of

1. those suffering from and committed to overcoming its effects and
2. a biblical narrative and Christian symbols revealing a God committed to come to the aid of the oppressed.

Liberation theologies, then, tend not so much to formulate theories of justice as theories of injustice, or better yet praxis in response to injustice (Lebacqz, 1987, pp. 10-37; Hennelly, 1995, pp. 8-38).

CLOSING

Formal definitions of justice which summon us to "render the other their due," or distribute resources "to each according to their..." are elastic, and the content we pour into them will depend largely on what we think the "right relations" between persons ought to be, or how we envision the ties between this virtue and other moral habits, affections, or the concrete experience of our lives. If justice is to describe what we owe others, we must first determine who we are to one another. In addition, if justice is to be the measure of moral communities, we must decide how rich and full these communities need to be.

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