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Theology Brief Preview

JUSTICE

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Essential to any discussion of justice is the distinction between two fundamentally different forms of justice – call them *first-order justice* and *second-order justice*. First-order justice consists of justice in our ordinary interactions with each other: teachers and students treating each other justly, merchants and customers treating each other justly, etc. Second-order justice becomes relevant when there has been a violation of first-order justice, that is, when someone has treated someone unjustly, wronged them. It consists of reprimands, punishments, and the like.

Many people, when they hear the word “justice,” think exclusively of second-order justice. The term “justice” connotes for them prisons, fines, condemnations. First-order justice is basic, however, in that, if there were no such thing as first-order justice and injustice, there would be no such thing as second-order justice. For that reason, I will focus my discussion on first-order justice.

Justice is fundamental in Christian scripture. Over and over in the Old Testament we read, “I the Lord love justice” (e.g., Isaiah 61:8), and over and over the ancient Israelites were instructed to “seek justice” (e.g., Isaiah 1:17). When the writer of the Gospel of Matthew explains who this mysterious person Jesus is, he identifies him as the one who is fulfilling “what had been spoken through the prophet Isaiah.” He “will proclaim justice to the Gentiles” and will “bring justice to victory” (12:17-20).

An important point to note about what the Old Testament writers say about justice and injustice in ancient Israel is that, though on occasion they have individual cases in view, usually it is social (systemic) justice that they urge and social (systemic) injustice that they condemn – that is, justice and injustice in the laws and social practices of Israel.

What is justice? Coming down to us from antiquity are two fundamentally different ways of thinking of justice. One comes to us from the Greek philosopher Aristotle, who explained justice as equity or fairness in the distribution of benefits and burdens. The other comes to us from the Roman jurist Ulpian (ca. 170-223 CE), who defined justice as *rendering to each what is his or her right, or due* (Latin: *ius*). I prefer Ulpian’s definition, for the reason that not all cases of injustice consist of the inequitable distribution of benefits or burdens. Suppose that I violate your privacy; then, even if I do nothing with what I learn, I have wronged you, treated you unjustly. But I have not in any way distributed benefits or burdens inequitably. The Ulpian formula tells us that treating someone justly consists of rendering to them what is their right or due – treating them

as they have a right to be treated. Justice is grounded in rights. But what are rights?

As one would expect, there is a good deal of disagreement on the answer to this question. My view, shared by many, and explicit in the UN documents on rights, is that rights are grounded in the worth (excellence, dignity) of the rights-bearer. Two fundamental facts about human beings are that we all have worth in certain respects and to certain degrees, and that there are ways of treating human beings that show due respect for their worth and ways of treating them that do not show due respect. I have a right to be treated a certain way when, if I were not treated that way, I would not be treated with due respect for my worth. Rights are what respect for worth requires.

Scholarship and teaching are inherently communal activities. In our engagement with students and colleagues we are called, one and all, to act justly – to treat our students and colleagues as they have a right to be treated, to treat them with due respect for their worth. It is evident to all who work in the academy, however, that the call to treat the other person justly is pervasively violated. In the vaunting by professors of their positions of authority, and in the competitive struggle of scholars to get ahead, they ride roughshod over the rights of others. But the biblical call to act justly is relevant not only to how professors and scholars treat each other and their students. In many disciplines and areas of inquiry, considerations of justice belong within the subject matter under consideration. This seems obvious for such disciplines and areas of inquiry as economics, political theory, management, health care, and gender studies, since these all deal directly with interactions among human beings. I say, “This seems obvious.” It does not seem obvious to everyone. In the work of a good many scholars in these areas, utilitarian considerations of power, efficiency, etc. are so prominent that justice is never brought into the picture.

A bit of reflection shows that considerations of justice are also relevant in disciplines and areas of inquiry where the relevance is not immediately obvious, since they do not deal directly with interactions among human beings. Architecture, for example. The focus of architecture is on buildings. But it is human beings interacting with each other who determine what is built and where. And what is built shapes, for good or ill, the lives of the human beings who inhabit those buildings and of those who must cope with them. Considerations of justice pervade architecture. Consider those disciplines and areas of inquiry that deal with the arts. Here too, while it may not be immediately obvious that considerations of justice are relevant, a bit of reflection shows that they are. Works of the arts are not just “out there” somewhere; they are made and engaged by human beings. And the ways in which they are made and engaged perforce raise issues of justice and injustice. Is it just, for example, that only the relatively well-to-do can afford to attend performances of the local symphony orchestra and choral society? And what colonialist studies of literature have shown us is that the worlds projected by literary works – how characters are portrayed and how society is pictured – raise profound issues of justice: gender justice, racial, class, economic, religious.

The same point could be developed for, say, environmental studies. But rather than developing that point, let me formulate the principle toward which we have been moving: considerations of justice are relevant to any discipline or area of inquiry that deals, in whole or in part, either directly or indirectly, with the interactions of human beings. And that covers most of what takes place in our colleges and universities. It does not cover theoretical physics as such – but it does cover how physics is developed and applied. It does not cover mathematics as such – but it does cover how mathematics is developed and employed.

When one looks at what scholars study and what professors teach, almost everywhere one sees that they are dealing, in part at least, directly or indirectly, with interactions among human beings. And whenever human beings interact with each other, they are divinely called to treat each other justly.

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