Lesson 28 – The Cardinal Virtue of Justice

What is a virtue?
What is the virtue of Justice?
What does Justice demand?
What is the difference between Justice and Charity?
What are the three types of Justice?
What are man’s rights?
What is the relationship between Justice and Rights?

I. THE HUMAN VIRTUES

1804 Human virtues are firm attitudes, stable dispositions, habitual perfections of intellect and will that govern our actions, order our passions, and guide our conduct according to reason and faith. They make possible ease, self-mastery, and joy in leading a morally good life. The virtuous man is he who freely practices the good.

The moral virtues are acquired by human effort. They are the fruit and seed of morally good acts; they dispose all the powers of the human being for communion with divine love.

The cardinal virtues

1805 Four virtues play a pivotal role and accordingly are called "cardinal"; all the others are grouped around them. They are: prudence, justice, fortitude, and temperance. "If anyone loves righteousness, [Wisdom's] labors are virtues; for she teaches temperance and prudence, justice, and courage."64 These virtues are praised under other names in many passages of Scripture.

1807 Justice is the moral virtue that consists in the constant and firm will to give their due to God and neighbor. Justice toward God is called the "virtue of religion." Justice toward men disposes one to respect the rights of each and to establish in human relationships the harmony that promotes equity with regard to persons and to the common good. The just man, often mentioned in the Sacred Scriptures, is distinguished by habitual right thinking and the uprightness of his conduct toward his neighbor. "You shall not be partial to the poor or defer to the great, but in righteousness shall you judge your neighbor." "Masters, treat your slaves justly and fairly, knowing that you also have a Master in heaven."

The virtues and grace

1810 Human virtues acquired by education, by deliberate acts and by a perseverance ever-renewed in repeated efforts are purified and elevated by divine grace. With God's help, they forge character and give facility in the practice of the good. The virtuous man is happy to practice them.

1811 It is not easy for man, wounded by sin, to maintain moral balance. Christ's gift of salvation offers us the grace necessary to persevere in the pursuit of the virtues. Everyone should always ask for this grace of light and strength, frequent the sacraments, cooperate with the Holy Spirit, and follow his calls to love what is good and shun evil.
St. Thomas Aquinas ranked justice as the second of the cardinal virtues, behind **prudence**, but before **fortitude** and **temperance**. Prudence is the perfection of the intellect ("right reason applied to practice"), while justice, as Fr. John A. Hardon notes in his *Modern Catholic Dictionary*, is an "habitual inclination of the will." **It is the constant and permanent determination to give everyone his or her rightful due.** While the theological virtue of charity emphasizes our duty to our fellow man because he is our fellow, **justice is concerned with what we owe someone else precisely because he is not us.**

**What Justice Is Not:**

Thus charity may rise above justice, to give someone more than he is rightfully due. But justice always requires perfect precision in rendering to each person what he is due. While justice is often used in a negative sense today—"justice was served"; "he was brought to justice"—the focus of the virtue is positive. While lawful authorities may justly punish evildoers, our concern as individuals is with respecting the rights of others, particularly when we owe them a debt or when our actions might restrict their exercise of their rights.

**The Relationship Between Justice and Rights:**

Justice, then, respects the rights of others, whether those rights are natural (the right to life and limb, the rights that arise because of our natural obligations to family and kin, the most fundamental property rights, the right to worship God and to do what is necessary to save our souls) or legal (contract rights, constitutional rights, civil rights). Should legal rights ever come into conflict with natural rights, however, the latter take precedence, and justice demands that they be respected. Thus, law cannot take away the right of parents to educate their children in the way that is best for the children. Nor can justice allow the granting of legal rights to one person (such as the "right to an abortion") at the expense of the natural rights of another (in that case, the right to life and limb). To do so is to fail "to give everyone his or her rightful due."

- **Justice** is the virtue that seeks to promote fair play. It’s the desire and resolve to give each person his due. It demands that you reward goodness and punish evil. Justice can be one of three different types:
  - **Commutative justice** is based on the principle of *quid pro quo*, which is Latin for *this for that*. Commutative justice requires, for example, that a customer pay a fair price for worthwhile goods.
Distributive justice involves the relationship between one and many — between an individual and a group — a person and the government, for example.

Social justice concerns the relationships between individuals and groups between one another and everyone. The common good and equal treatments are the cornerstones of social justice.

Justice disposes us to give everyone what belongs to him. It teaches us to give what is due to God and to man. It makes us willing to live according to the commandments. Justice perfects the will and safeguards the rights of man: his right to life, freedom, honor, good name, sanctity of the home, and external possessions.

The just man is an upright (righteous) man. He gives to every one his due: he gives God worship; the authorities, obedience; his subordinates, rewards and punishments; and his equals, brotherly love. "Render to all men whatever is their due; tribute to whom tribute is due; taxes to whom taxes are due; fear to whom fear is due; honor to whom honor is due" (Rom. 13:7).

LIVING JUSTICE

When John the Baptist was arrested Jesus began his preaching. He said, “Repent and believe in the gospel”. That is, look back on your sins with sorrow and contrition, and believe the good news that God will forgive you and make a new life possible, a new life that involves living a certain way. And so I am talking this Lent about the virtues, beginning with the human moral virtues, cardinal among them prudence, justice, temperance, and fortitude.

Justice is a good thing, and everybody wants it, especially for themselves. To each his due. Each should get what he or she deserves. Human rights demand respect. When I was a child I pledged allegiance to the flag and to the republic, one nation under God with liberty and justice for all. Then, we all sat down to our studies, and if someone was copying off of my test paper, or broke the rules of the game on the playground, I knew justice had been violated. “Not fair!” comes naturally to our lips. It’s less obvious what we owe others, perhaps because of self-interest, but what others are due is often obvious enough if we take the time to put ourselves in their shoes.
For example, you crunch somebody’s fender in the parking lot, and nobody saw it. Do you leave your name and phone number? The virtue of justice says – yes! They didn’t deserve that, my own negligence caused it, I owe them compensation. Or, you are remodeling someone’s kitchen and it turns out to cost less than your originally estimated. Do you stick with your original estimate? Justice says, no! if I had known then what I know now I would have estimated less, so that’s the fair price to charge, otherwise I’d be taking advantage of their ignorance. I owe my customer the truth, and a fair price for a good job.

These are examples of what they call commutative justice, having to do with the exchange of goods and services. Distributive justice has to do with the relations between individuals and groups. Like paying taxes. In justice I should be willing to support the system from which I benefit. Freeloaders are unjust because they are getting something for nothing, forcing others to support them when they could be supporting themselves. So, do you cheat on your taxes by hiding income or claiming deductions that don’t apply to you? Or do you write tax laws to benefit your cronies? These are matters of justice.

A subcategory of distributive justice is social justice, which directs attention to situations where customary ways, or perhaps even the law, deny people what they are due. Racism can do that, even if it is trying to remedy past racism. And there can be established patterns of property ownership, educational opportunities, or cultural expectations that keep people trapped in poverty. Some years ago Archbishop Helder Camara in Brazil said something like “When I feed the poor, they call me a saint. When I ask why they are poor they call me a communist.” These days, if you inquire into the causes of poverty you might as likely be called a right wing extremist, blaming the poor for their drug addictions and poor work ethic. But exploiting the welfare system to escape work and responsibility is indeed unjust, and doing nothing to change a system that keeps people dependent is also unjust.

Justice is the virtue that respects the right of others and gives them what they are due. This is obviously important, but it is not enough, because although we all seem to have an innate sense of justice, we have big arguments about what people are entitled to. For example, consider this quote:

“At the heart of liberty is the right to define one’s own concept of existence, of meaning, of the universe, and of the mystery of human life.”

It’s a little high-flying, but it sounds pretty obvious. I wouldn’t want to tell somebody that they don’t have a right to their own ideas about the meaning of life. Recognize the quote? It’s from a Supreme Court decision, Planned Parenthood vs. Casey, 1992, which struck down restrictions on abortion passed by the Pennsylvania legislature.

The logic here is that if, in your personal concept of the mystery of human life you decide that the little human being living in the womb is not due the right to keep living, then he or she is not due the right to keep living. Pretty amazing logic! It implies that there is no objective basis for determining matters of justice, of right, of what people are due. It’s all a matter of my personal concept of the meaning of
the universe, And it implies that if you are strong enough to impose your concept of meaning on someone else, it’s no injustice to impose it. Might makes right.

Now some say, “so what?” This has always been the case. No human society has ever been anything more than some imposing their concept on others. The rich write the laws, and the winners write the history. There’s a little truth to this. The police and the military are evidence that human society sometimes requires force to maintain itself, history is full of tyrants keeping order by coercion – but we are speaking of justice, of what is right, of what one is due, not merely of what one may happen to want and can force on others.

Is there an objective basis for knowing what is right and just? I think so. Frankly, I think the Supreme Court was just blowing smoke. But discerning justice requires a high degree of objectivity. One must be able to step back from one’s own desires and recognize them for what they are – fickle, limited, personal, not necessarily grounded in reality or binding on other people. To be that objective isn’t easy, because it requires a concept of existence that doesn’t put oneself at the center of the universe. Which is why I would submit that it is extremely difficult, maybe well-nigh impossible, to give others their due unless I give God His due; what we mean when, in response to “Let us give thanks to the Lord our God”, we say “it is right and just.”

**JUSTICE**

*Justice* is here taken in its ordinary and proper sense to signify the most important of the cardinal virtues. It is a moral quality or habit which perfects the will and inclines it to render to each and to all what belongs to them. Of the other cardinal virtues, prudence perfects the intellect and inclines the prudent man to act in all things according to right reason. Fortitude controls the irascible passions; and temperance moderates the appetites according as reason dictates. While fortitude and temperance are self-regarding virtues, justice has reference to others. Together with charity it regulates man's intercourse with his fellow men. But charity leads us to help our neighbor in his need out of our own stores, while justice teaches us to give to another what belongs to him.

Because man is a person, a free and intelligent being, created in the image of God, he has a dignity and a worth vastly superior to the material and animal world by which he is surrounded. Man can know, love, and worship his Creator; he was made for that end, which he can only attain perfectly in the future, immortal, and never-ending life to which he is destined. God gave him his faculties and his liberty in order that he might freely work for the accomplishment of his destiny. He is in duty bound to strive to fulfill the designs of his Creator, he must exercise his faculties and conduct his life according to the intentions of his Lord and Master. Because he is under these obligations he is consequently invested with rights, God-given and primordial, antecedent to the State and independent of it. Such are man's natural
rights, granted to him by nature herself, sacred, as is their origin, and inviolable. Beside these he may have other rights given him by Church or State, or acquired by his own industry and exertion. All these rights, whatever be their source, are the object of the virtue of justice. Justice requires that all persons should be left in the free enjoyment of all their rights.

A right in the strict sense in which the term is used in this connection is not a mere vague and indefinite claim against others, which others are bound to respect, on any grounds whatever. We sometimes say that the unemployed have a right to work, that the needy have a right to assistance, and it may be conceded that those phrases are quite correct, provided that such a right is understood as a claim in charity not as a claim in justice. For, at least if we confine our attention to natural law and ordinary circumstances, the assistance to which a man in need has a claim does not belong to him in justice before it is handed over to him, when it becomes his. His claim to it rests on the fact that he is a brother in distress, and his brotherhood constitutes his title to our pity, sympathy, and help. It may, of course, happen that positive law does something more than this for the poor and needy; it may be that the law of the land has given a legal right to the unemployed to have employment provided for them, or to the poor a legal right to relief; then, of course, the claim will be one of justice.

A claim in justice, or a right in the strict sense, is a moral and lawful faculty of doing, possessing, or exacting something. If it be a moral and lawful faculty of doing something for the benefit of others, it belongs to the class of rights of jurisdiction. Thus a father has the natural right to bring up and educate his son, not for his own, but for the son's benefit. A lawful sovereign has the right to rule his subjects for the common good. The largest class of rights which justice requires that we should render to others are rights of ownership. Ownership is the moral faculty of using something subordinate to us for our own advantage. The owner of a house may dispose of it as he will. He may live in it, or let it, or leave it unoccupied, or pull it down, or sell it; he may make changes in it, and in general he may deal with it as he likes, because it is his. Because it is his, he has a right to all the uses and advantages which it possesses. It is his property, and as such its whole being should serve his need and convenience. Because it belongs to him he must be preferred to all others as to the enjoyment of the uses to which it can be put. He has the right to exclude others from the enjoyment of its uses, it belongs with all the advantages which it can confer to him alone. Were anyone else to make use of the house against the reasonable wish of the owner, he would offend against justice, he would not be rendering to the owner what belongs to him.

The right of ownership may be absolute or qualified. Absolute ownership extends to the substance of the property and to all its uses. Qualified ownership may, in the language of divines, be direct or indirect. The former is ownership of the substance of a thing without its uses, such as the landlord has over a house which he has let. Indirect ownership is the faculty of using, but not of disposing of, a thing. When anything definite and determinate is owned by anyone so that he can say--"This is my property"--he is said by divines to have a right in re. On the other hand if the thing has not yet come into existence though it will come, or it is not separate and determinate, so that he cannot say that it is actually his, but he nevertheless has a
strict claim in justice that it should become his, he is said to have a right *ad rem.* Thus a farmer has a right *ad rem* to the harvest of the coming year from his land; when he has harvested his crop he will have a right *in re.*

Ownership in the sense explained is the principal object of the virtue of justice as it regulates the relations of man with man. It sharply distinguishes justice from charity, gratitude, patriotism, and other virtues whose object is a claim against others indeed, but a claim of a less strict and more indefinite character. Justice between man and man is called individual, particular, or commutative justice, because it is chiefly concerned with contracts and exchange. Individual justice is distinguished from social, for not only *individuals* have claims in justice against other *individuals* but a subject has claims against the *society* to which he belongs, as *society* has claims against him. Justice requires that all should have what belongs to them, and so the just man will render to the *society,* or State, of which he is a member, what is due to it. The justice which prescribes this is called legal justice. On the other hand, the individual subject has claims against the State. It is the function of the State to protect its subjects in their *rights* and to govern the whole body for the common good. Authority for this purpose is given to the State by nature and by *God,* the Author of man's social nature.

The power of the State is limited by the end for which it was instituted, and it has no authority to violate the natural *rights* of its subjects. If it does this it commits injustice as *individuals* would do if they acted in like manner. It may indeed levy taxes, and impose other burdens on its subjects, as far as is required by the common necessity and advantage, but no further. For the common good it has authority to compel individual citizens to risk life for the defense of their country when it is in peril, and to part with a portion of their *property* when this is required for a public road, but as far as possible it must make suitable compensation. When it imposes taxes, military service, or other burdens; when it distributes rewards, offices, and honors; when it metes out condign punishment for offenses, it is bound to do so according to the various merits and resources of the persons concerned; otherwise the State will *sin* against that special kind of justice which is called *distributive.*

There is a controversy among authorities as to whether commutative, legal, and distributive justice are so many species of one common genus, or whether commutative justice is in reality the only species of justice in the strict sense. There is much to be said for the latter view. For justice is something which is due to another; it consists, as *Aristotle* said, in a certain equality by which the just and definite claim of another, neither more nor less, is satisfied. If I have borrowed a horse and cart from my neighbors, justice requires that I should return that particular horse and cart. The *debt* in its precise amount must be paid. Consequently, justice in the full and proper sense of the term requires a perfect distinction between debtor and creditor. No one can be bound in justice towards himself; justice essentially regards others. However, between the State and the *individuals* who compose it there is not this perfect distinction, and so there is something wanting to the proper and complete notion of the virtue in both legal and distributive justice.
The rights which belong to every human being inasmuch as he is a person are absolute and inalienable. The right to life and limb, the essential freedom which is necessary that a man may attain the end for which he is destined by God, the right to marry or remain single, such rights as these may not be infringed by any human authority whatever. A man himself even has no right to dispose of his own life and limbs; God alone is the Lord of life and death. But a man has the duty and the right to use and develop his faculties of soul and body, and if he chooses he may dispose of his right to use these faculties and whatever advantage they can procure him in favor of another. No person then can become the property of another human being, slavery in that sense is repugnant to the dignity of human nature. But a man may by various titles have the right to the labor of another.

All things inferior to man were created for his use and benefit; they fulfill the end of their being by ministering to his wants and necessities. Whatever, therefore, pertains to the animal, vegetable, or inorganic world may be brought under the ownership and made the property of man. The right thus to acquire property which is useful and necessary for an orderly human life, is one of man's natural rights, and it can not be taken away by the State. She State may indeed make reasonable laws regulating and defining the property rights of its subjects for the common good, but it cannot abrogate them altogether. Such rights are antecedent to the State, and in their substance independent of it; the State was instituted to protect and defend them, not to take them away.

Rights are the appendage of intelligent beings as such, beings who can reflect on themselves, know their own wants, and who can will to supply them by permanently appropriating to themselves objects which are subordinate and which will satisfy those wants. Every human being, therefore, is the subject of rights, even before he has been brought into the world. The unborn child has a right to its life; it may even have property rights as well. Justice then is violated if such rights are interfered with unwarrantably. Minors and married women have their rights like others, but positive law frequently modifies their property rights for the common good. In past ages the property rights of women especially were largely modified by positive law on their being married, the husband acquiring more or less extensive rights over the property of his wife. In modern times, and especially in English-speaking countries, the tendency has been to do away with such positive enactments, and to restore to married women all the property rights which unmarried women possess.

Not only individuals, but societies of men as such are the subjects of rights. For men cannot singly and by their own unaided exertions do everything that is necessary for the security and dignity of human existence. For this end man needs the co-operation of his fellows. He has then a natural right to associate himself with others for the attainment of some lawful end, and when such societies have been formed, they are moral persons which have their rights similar to those of natural persons. Such societies then may own property, and although the State may make laws which modify those rights for the common good, it is beyond its power altogether to abrogate them. Men have this power to form themselves into societies especially for the purpose of offering to God the public and social worship which is due to Him. The Catholic Church, founded by God Himself, is a perfect society and
independent of the State. She has her rights, God-given, and necessary for the attainment of her end, and justice is violated if these are unwarrantably interfered with.

As we have seen, human nature, its wants and aims, are the source of the fundamental and natural rights of man. By his industry man may occupy and annex to his person material things which are of use to him and which belong to nobody else. He thus acquires property by the title of occupation. Property once acquired remains in the possession of its owner; all that it is or is capable of is ordained to his use and benefit. If it increases by natural growth or by giving birth to offspring, the increase belongs to the original owner. By the same law of accession increase in value, even unearned increment as it is called, belongs to the owner of that which thus increases—"Res fructificat domino". Positive law may, as we have seen, modify property rights for the common good. It may also further determine those that are indeterminate by the law of nature; it may even create rights which would not exist without it. Thus a father may by law acquire certain rights over the property of his children, and a husband may in the same way have certain rights over the property of his wife. When such rights exist it is, of course, a matter of justice to respect them. Finally, rights may be transferred from one to another or modified by a great variety of contracts, which are treated of under a special heading. See CONTRACT.

The foregoing is in very brief outline the doctrine on justice which has been gradually elaborated by Catholic philosophers and divines. The foundations of the doctrine are found in Aristotle, but the noble, beautiful, and altogether rational edifice has been raised by the labors of such men as Aquinas, Molina, Lessius, Lugo, and a host of others. The doctrine as it appears at large in their stately folios is one of the chief and most important results of Catholic thought. It fully accounts for the peremptory, sacred, and absolutely binding character with which justice is invested in the minds of men. It was never of greater importance than it is nowadays to insist on these characteristics of justice. They disappear almost if not altogether in the modern theories of the virtue. Most of these theories derive rights and justice from positive law, and when socialists and anarchists threaten to abrogate those laws and make new ones which will regulate men's rights more equitably, no rational defense of the old order is possible. It becomes a mere question of might and brute force. Even if some with Herbert Spencer endeavor to find a deeper foundation for justice in the conditions of human existence, it is easy to answer that their interpretation of those conditions is essentially individualist and selfish, and that human existence thus conditioned is not worth having; that the new social order peremptorily demands their abolition. The Catholic doctrine of justice will be found one of the main safeguards of order, peace, and progress. With even balance it equally favors all and presses unduly on none. It gives the State ample authority for the attainment of its legitimate end, while it effectually bars the road to tyranny and violence.