

**Justice and Mercy:
Uneasy Bedfellows or a Seamless Garment?**

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2 Samuel 24: 10-14

Every year the Holy Father addresses the Roman Rota – usually in January or February or thereabouts. This is the opportunity for the Pope to give some direction to the Rota (as well as thanking them for their hard work and telling them how important it is), and it is made very clear that what he says to the Roman Rota is also for Tribunals throughout the world to take note and to implement.

Unsurprisingly, these addresses regularly concern the relationship of law and Church policy, and the way that developing Church teaching must affect the law and its application. In doing so, these addresses often consider difficult issues in regard to implementing the law in such a way that it is clearly a law of love.

For example, on 5th February 1987 Pope John Paul II referred to ‘the arduous task of the judge’ as being a ministry of truth and charity in and for the Church. “It is a ministry of truth in so far as the genuine concept of Christian marriage is safeguarded even in the midst of cultures and fashions which tend to obscure it. It is a ministry of charity towards the ecclesial community which is preserved from the scandal of seeing the value of Christian marriage being destroyed... It is also a ministry of charity towards the parties themselves to whom declarations of nullity have to be refused out of love for the truth.”

We might think that that was not entirely helpful. The parties who are divorced and remarried, and whose application to the Tribunal has failed to produce the result they hoped for, may need considerable help in seeing the result as an act of charity. But the Holy Father did not stop there. A couple of paragraphs later he commented that “the work of the judge in the ecclesiastical tribunal is linked in a real way... to the rest of the whole pastoral ministry of the Church... It ensures that the refusal of a declaration of nullity will become an occasion of new ways of solving the problems of married people in difficulty who have recourse to the ministry of the Church. It is never to be forgotten that every solution passes through the Paschal Mystery of death and resurrection, and demands the whole commitment of the spouses themselves to be converted to salvation in order to be reconciled with the Father.”

In other words, we don't stop when the judicial decision has been handed down. Ways must be found of helping the persons affected by the Tribunal decision to see it as

an occasion of grace, of re-evaluating their relationship with the Lord and with the Church of God, of conversion and of salvation. And this work should not merely be left to the pastoral ministers such as the parish priest and assistant priests; the Tribunal officials who present the judgement to the parties also have a role and a responsibility in this regard. They have to exercise this responsibility in the way in which they communicate the decisions, the way in which they respond to requests for clarification, and so on. Pope John Paul II reaffirmed, in this address, that wrongly to declare a marriage to have been invalid, out of misguided love, would not be an act of love, because it was not faithful to the truth; and at the same time to declare the truth of the matter firmly and uncompromisingly, but without love, would not be a service to the truth at all, because of the lack of loving service.

A few years later, in his address to the Roman Rota on 18th January 1990, Pope John Paul II considered again the relationship between the law (and judicial decisions in particular) and the pastoral work of the Church. He comments (quoting Pope Paul VI) that the Church needs a legal structure in order for it to lead people effectively to God and hence to salvation; and that pastoral work must always contain an element of doing justice, even though it goes beyond it. It follows, he says, that “the demands of justice must always be respected. They may be superseded, but never denied. In the Church, true justice, enlivened by love and tempered by equity, always merits the adjective ‘pastoral’. There can be no exercise of pastoral love which does not take into account... pastoral justice.”

This leads the Holy Father to consider the relationship between justice and mercy. He quotes Gratian: Judging justly serves mercy along with justice; and he quotes Aquinas: Mercy does not tear down justice, but is the fullness of justice. So Tribunals must always attend to the principles of both justice and mercy in their work. They are aware of the unhappiness of the people who approach them due to marital breakdown and its effects on them and on the children, and “of their right to be an object of special pastoral concern”, while also being keenly aware of the need to tell the truth. An “unjust declaration of nullity would find no legitimate support in appealing to love or mercy, for love and mercy cannot put aside the demands of truth.” He continues that “a judge... must always be on guard against the risk of misplaced compassion”; this would only be pastoral in appearance, and would serve to drive people away from God, rather than leading people to God.

So how are justice and mercy to be related, so that St. John Paul’s reflections can be put into practice? How can the tribunal personnel, whether judges, auditors, advocates, defenders, administrators, seek the truth and strive to do justice to the parties and to the whole Church, in such a way that those affected by their work can see it as a work of loving concern for them? How can pastoral care deliver to them the mercy of God in and through the Church, and yet ensure that justice is done and seen to be done?

The usual way of expressing this is to say that justice must be tempered by mercy; even sometimes going so far as to say that justice without mercy is not true justice at all. And yet when we come to reflect on occasions where mercy is offered, we might wonder whether this really respects justice. This is an age-old problem, which (among other things) surfaced in regard to the penitential practice of the Church as it developed in the later

centuries of the first millennium, the rise of indulgences, and the abuse of indulgences in the medieval Western Church.

St. Anselm, 11th century Archbishop of Canterbury, argues that in a just world, everyone should get their just and fair deserts – so the good should receive good, and the evil should receive evil. But then he has two questions to ask of God. The first is: how can God, who is supremely just, spare the wicked? Is that not an affront to justice? We are all sinners, so should we not all be condemned? The second question is: given that God does save some sinners but not all (Anselm assumes that there are some who will be saved and some who will not, though we don't know the numbers) how can that be just, since we are all sinners? (Anselm's two questions are to be found in his *Proslogion*, IX and XI)

Anselm's answer is, in effect, that because God is incomprehensible, so is divine justice and mercy. We cannot understand God's mercy any more than we can understand God, so although the result seems to us to be unjust, that is not how it seems to God, and the workings of divine mercy are similarly beyond our comprehension. So everything is in accordance with divine mercy even though its workings, to us, seem unjust.

Similar questions, in a more modern format, have been raised more recently. In a discussion about forgiveness and mercy with Jean Hampton, Jeffrie Murphy analysed various situations in which sensible and sensitive people might say that mercy would be appropriate. For example, if someone has borrowed a fairly large sum of money from me, with a promise to pay it back in three months; but during that time ran into serious bad luck in personal and family health, requiring hospital treatment, with consequent loss of earnings and extra expenses of travel and so on, would it then be appropriate for me to 'be merciful', and waive some of the debt, or defer the due time when I would expect it to be repaid? Most people would say that mercy would be appropriate in such circumstances. Similarly, if a judge in a criminal court, in which a defendant has been found guilty, but a range of serious extenuating circumstances has been put forward, nevertheless sentenced the offender with the full rigour of the law, we would tend to say that the judge was not acting appropriately. But, Murphy says, we would not so much say that the judge lacked mercy, as that the judge lacked justice – failing to take into account relevant material in making the decision about sentence.

So, Murphy says, mercy properly understood is just an aspect of justice. But is that all that can be said? Can there be other circumstances where mercy is not part of justice? To give a different example: I once asked the students how they would feel about it if I decided that I couldn't do with resits, and so privately I had decided that everyone would pass the exam, despite how little work they did or how little knowledge and understanding they showed, but everyone who had done enough to pass would be graded in accordance with a just assessment of their work. How would that be? I was quite surprised by the vehemence with which they gave that suggestion the thumbs down. It would devalue the work of those who had worked hard, and the knowledge and understanding shown by those who had done well. It seems, then, that mercy in such circumstances is certainly not an aspect of justice. Indeed, we could consider other scenarios – such as releasing from prison some people who have been convicted but not others, and on no discernible

grounds for doing so – where the result would be seriously unjust. So Murphy concludes that, if it is not an aspect of justice, then mercy is, far from being a virtue, actually a vice – an aspect of injustice.

Jean Hampton takes a different approach, concentrating less on the justice or injustice of an action or inaction, but on the human relationships involved. If someone has injured me, she says, and I forgive, without there being any sign of remorse on the part of the offender, then will that not harm my own self-respect? We know that injuries and injustices regularly go unpunished, and the result is perhaps anger, loss of self-respect, resignation, or some combination of such detrimental feelings, which can easily build up into a very unhealthy cocktail of emotions – unhealthy for the person injured and for those around. But she sees a positive value in forgiveness in these circumstances, if the offer of mercy could lead to the offender being remorseful, for example, or offering a repaired human relationship which otherwise could only remain damaged.

Murphy disagrees: the offer of forgiveness in the absence of remorse would, he says, be more likely to confirm the offender in the offence, and might even be taken as an insult, leading to more and greater offences and injuries and deterioration in an already unhealthy set of human relationships.

This discussion between Murphy and Hampton didn't arrive at any resolution. Is mercy just an aspect of justice? Is it a vice which should be excluded from all just society? Does it serve to bring human persons together or might it serve to drive them further apart?

I suggest that we can look for some light on the matter from the parables of Our Lord. Scripture scholar Father Joseph O'Hanlon says that the parables can and should be interpreted as indicative followed by imperative (that is the situation; do this). Example: 'The ship is sinking: man the lifeboats'. There may be all sorts of reasons why I don't attend to manning the lifeboats: I may have been ordered to do something else; there might not be enough lifeboats and I employ the Bridlington Convention (women and children first); I may not believe those who tell me that the ship is sinking. But if the ship is indeed sinking, then manning the lifeboats is still the obvious thing to do.

Application of this approach to three parables of Our Lord.

Luke 16: 1-9. This is often called 'the parable of the unjust steward'. This is incorrect: the steward is accused of being wasteful, not dishonest. Modern versions refer to the parable of the wasteful steward, the crafty steward, even the prudent steward. Father Joseph O'Hanlon's summary of this parable: 'the auditors are coming: cook the books'.

In this short parable, the 'rich man' of the first line is four times (vv 3, 6 (twice), and 8) called 'kurios' – lord, master; but also, of course, in the Greek Testament a name of God, extensively in the LXX, and consequently in the New Testament in quotations from the LXX. So it is clear enough that the rich man of the parable stands for God.

At the end of the parable (v 8), we hear that the Lord praised the ‘steward of unrighteousness’ for his prudent actions. This seems very strange; why should the rich man praise the steward for giving away even more of his property? Why should God praise someone for acting dishonestly? Various attempts are made to explain away the problem: but I think we should accept the shock – as Father Joseph says: the auditors are coming, cook the books! The parable intends to make us sit up and ask questions. So where do our questions take us?

We have all been wasteful with the gifts that the Lord God has given us; whether material possessions, or the friendship and love of the people among whom we live, or the talents with which we have been blessed, and so on. When we are being called to draw up an account of our stewardship of God’s many gifts, what can we do? The very clear suggestion of this parable is that we give them away – but not waste them; rather give them away to good purpose, being merciful to others. The steward’s actions in forgiving some of the debts of the debtors were unjust but merciful – and the master praises him.

In the previous chapter, we find the well-known parable of the prodigal son. Luke 15: 11-32. I haven't heard Father Joseph O'Hanlon's summary of this one – but if we focus on the end of the parable (frequently a good idea), and also on the features that it has in common with the two short parables with which the chapter begins, then something like 'They're having a party: gatecrash it' might be a possibility.

Why doesn't the older son join in the party? We are told that he was angry and wouldn't go in; but not really why he was angry – until his father comes out to talk to him. Then he answers his father – and we can sum up what he says to his father (vv 29-30) as 'It's not fair'. Being fair, of course, is an important aspect of being just.

But when we think of the times when we have said 'It's not fair', or when others have said (or implied) the same message, then I think we can see that, lurking beneath the complaint that this is not justice, there is also a fair amount of the sin of envy. That is a point to remember in a few moments. But for the present, note what the father says. The father, of course, standing for God in this parable, says to the older son: Son, you are always with me, and all that I have is yours. Now what more can any of us want from God, than that God is always with us, and that all God has is shared with us. Consider the wording of the blessing of the rings in a marriage ceremony in the Revised Rite of Marriage: I give you this ring as a sign of our marriage .With my body I honour you; all that I am I give to you and all that I have I share with you within the love of God, Father, Son, and Holy Spirit. What more can anyone ask of another than to be always together and share everything completely?

So the older son is envious. He complains that his father has not done justice to him. It's not fair. His father says that there is no more that anyone could possibly ask for, beyond what he gives (and gives every single day) to his older son. Then he says (v 32) that they were *bound* to rejoice. (The Greek word used is εδει). Celebration was something that they had to do.

So the father – God – is merciful to the son who certainly doesn't deserve mercy; but far from this being unfair to the older son, it was something to celebrate. This all suggests that envy is the source of the difficulties between mercy and justice (or at least between mercy and fairness).

Which leads us to another parable where envy causes a complaint of injustice: Matt 20: 1-16, the parable of the vineyard owner who engages workers at various times during the day, having agreed a fair wage (or so he says, and we have to accept this as being the case) with those who were engaged first, and who then pays them all the same amount, starting with the lastcomers. When those who had worked all day were paid, they expected to get more, and when they didn't, grumbled at the owner (vv 11-12). Their complaint, as with the older son in the parable of the prodigal son, is that the owner has not been fair.

The first point to remember is that the parable begins by saying that the kingdom of heaven (which is Matthew's way of talking of the Kingdom of God) is like a vineyard owner who hires workers: so there is no doubt that the words and actions reported of the vineyard owner are to be attributed to God.

The master's answer (that is, God's answer) is first of all that he has not done the grumbler any harm: he has agreed a fair wage with him, and he has honoured his agreement (v 13). Then (v 14) he says that he chooses to give earlier workers the same as he gives to later ones. We don't know whether they had any reasons for not working as long, and if they did have reasons, whether they were honourable reasons. Did one of them have to take a sick child to the doctor? Or perhaps had a headache due to too much vino the night before? We don't know, and it seems that the vineyard owner (God) is unconcerned about reasons. In other words, we don't know whether we might say that the people deserved mercy, and this implies that the master of the vineyard isn't too bothered about such questions. He chooses to be generous, regardless of whether such mercy is 'deserved'.

The master – that is, God – now has two further points to make in v 15. First of all, he asks whether it is not up to him to decide what he does with what is his own. Then, in the versions we are accustomed to hearing or reading, he asks why the grumbler begrudges his generosity, or why be jealous because I am kind, or why be envious because I am generous. But the Greek would be more literally translated: 'why do you have the evil eye because I am good?'

So the grumbling workers complain about a lack of fairness – that is, of justice. But the vineyard owner – God – says that what he has done is *good*, and that the complaints are due to the evil eye, envy. So it is not merely that generosity to someone else has resulted in envy or jealousy; it is that God's goodness has resulted in evil (the evil eye). Obviously it is wildly inappropriate that good should engender evil in another. Anselm was concerned with the injustice of God doing good to those who do evil; how much more should we all be concerned about God's good actions bringing about an evil response!

So reflecting on these three parables might give us some pointers towards the relationship of justice with mercy in God's sight.

Being merciful is connected with God doing what God wants with what belongs to God; and in particular it is God being good, and it is something to be celebrated. God being merciful to one person or group is nothing for others to complain about, because God is generous with his gifts to everyone. What stops us seeing that we are invited into God's celebration to receive an abundance of God's mercy is our envy, our 'evil eye', which stops us from seeing things as they are.

These pointers – and probably more besides – may well have been in the mind of the Angelic Doctor when he considered how to relate justice and mercy. He does so by considering also other attributes which we fittingly apply to God – namely generosity and goodness. We recall that the vineyard owner has been generous, apparently without reason, and he specifically refers to his actions as being good.

Aquinas was aware of the discussions of the ancients concerning justice. Plato analysed justice as being a matter of doing what is right: if everything is working as it should, then there will be justice. A just person is one in whom the intelligence, will, emotions, all act in harmony; a just state is one in which every person acts in harmony with everyone else, and everyone is acting as they should. Aristotle developed Plato's ideas, and concluded that justice was a matter of harmony and balance, and that this was the case with all the virtues: they were all neither too much nor too little.

Aquinas takes up Aristotle's ideas, but grafts them on to his understanding and faith in God the Creator. So we start from the fact that everything comes from God. Aquinas reflects on various different ways of looking at God's gifts in creation, and concludes that everything that God gives is a sign and effect of God's goodness. Furthermore, because God has no need of creatures, or of what creatures can do, it follows that all these gifts are signs and effects of God's generosity. Then he reflects on the order in the universe, and following Aristotle and Plato, and their understanding of justice as balance and good order, he concludes that this is a sign and effect of God's justice. Finally, he recognises that God's gifts meet our needs, and that mercy is above all a matter of attending to the needs of others; and so he concludes that God is merciful in his gifts. In particular, God is just in giving to creatures the gifts which are fitting to the creature's nature; and God is merciful in giving to creatures (and particularly to human beings) more than they need or deserve.

So Aquinas can relate justice and mercy, together with goodness and generosity, as aspects of God's actions in creation. But he goes further than this: for at the moment of creation, there was nothing for God to be just towards; everything that God gave in creation was an act of pure generosity. God commits himself to us his people whom God has freely created: so his just actions towards us are founded on prior pure gift; and this prior pure gift can be understood as an act of mercy, precisely because it goes beyond what was required. So Aquinas concluded that mercy starts all of God's works. But also God gives more than we can possibly earn or deserve, so God's actions towards us continue to be merciful, grafted on to God's justice. So mercy begins all of God's works, and mercy enables God's creatures to flourish, and mercy concludes all of God's works. It follows that there cannot be opposition between justice and mercy, if they are properly understood, because in God mercy always begins, completes, and fills out justice. (ST Ia q 21 a 3-4) (See also B Davies: *Thomas Aquinas' Summa Theologiae: A Guide and Commentary* p 86)

If justice is a virtue, then is mercy also a virtue? It is an interesting idea, because of Aristotle's view that to develop any virtue properly we need to develop them all. So if

mercy is a virtue, then it would follow that we cannot really be just people unless we are also merciful.

In addressing this question, Aquinas has a considerable advantage over Aristotle: he is a Christian. So whereas Aristotle could only understand natural virtues – powers which are appropriate for human persons to develop, and are (presumably) within our ability to develop – Aquinas was aware that there were also (and more importantly) the three theological virtues – gifts from God, faith, hope, and charity – the three that last, and the greatest of these is charity. This is the supreme virtue, because it unites us with God; all the other virtues, therefore, depend in charity in some way.

So Aquinas considers mercy as an aspect of the theological virtue of charity. God is merciful to us, because God loves us so much that whenever we are in distress (as sinners), God gives to us what we need (forgiveness, salvation). And Aquinas concludes that our Christian way of life should be the same: we also should love our brothers and sisters in such a way that we always wish to respond adequately to their need. Mercy, he tells us, is the Christian's rule of life. (ST IIa-IIae q 30)

So the upshot of all that we have been considering is that mercy has to be seen as preceding justice, as being allied with goodness and generosity, and as being the ambience within which it becomes possible to do justice. Rather than justice being tempered by mercy, it seems that we should look instead to mercy as issuing into justice if we are being merciful enough.

But how can that enable us to confront the paradoxes of mercy and justice?

We note that the issue which raises its head in the parables of the prodigal son and of the vineyard owner was envy; and we are all very aware of the destructive nature of envy in our world, and the harmful effects on public and political and social life of the 'politics of envy' in its various guises. But envy is sinful – to give in to it is to give in to a sinful world.

To say that doesn't solve the problems, of course, but I think it does enable us to situate them properly: if we have difficulties in relating mercy to justice in this way, of putting Aquinas' ideas into practice, or carrying out the gospel message, that is because we are in a sinful world and we are sinners. We can't abdicate from the world; but nor do we give in to it. The victory over sin has been won. In being merciful, despite the paradoxes caused by envy, we are allowing ourselves to be placed on the side of the victor.