

JUSTICE OR SOCIAL JUSTICE? BUILDING ON THE THOMISTIC PARADIGM**Benedict Chukwuemeka Okpata, PhD**

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ABSTRACT

Scholarly debate on the question of justice remains unabated, especially since medieval period when Thomas Aquinas devoted a great deal of space to the virtue of justice. Aquinas, despite his enormous effort, could not exhaust all the aspects of justice. On another note, the concept of social justice which is more or less, a recent effort by scholars to augment on Aquinas' concept of justice, is equally subject to controversy. In fact, scholars are not in harmony as regards the nature, scope and function of social justice. For some, it is nothing else but merely another expression for legal justice. Others even equated the two. Still, others say that it comprises and/or signifies all that legal and distributive justice mean. And others again distinguish social justice from legal, distributive and commutative justice. Both distributive and contributive/legal justice, for some, are implied in the modern term: social justice, which some writers consider a separate type of justice. The above controversy compels this paper to adopt historical and comparative analysis, especially as regards the comparison between different aspects or species of justice; so as to contribute to the ongoing debate. In the end, this research agrees with Pope John Paul II that the world should overcome the rigid limitations of commutative justice, i.e., justice in its strict sense and embrace social justice which seeks to subordinate things to man, individual goods to the common good, and right to property to the right to life. This paper finally submits that the question of justice should be holistic, contextual, realistic, reasonable and above all, humanistic, fair and social.

Keywords: Justice, Social Justice, Virtues, Aquinas.

INTRODUCTION: DEFINING JUSTICE BASED ON THE MODEL OF THOMAS AQUINAS

In order to understand the concept of *Social Justice* one must first of all understand the concept of *Justice*. According to McBrien (1994), justice is derived from the Latin word *ius*, which means "right" (p. 943). Thomas Aquinas understood it as "the firm and constant will to give to each one his due." In other words, "the notion of justice is based on the fundamental equality of all men. Since all men are fundamentally equal, they should be treated as equals. To treat them unequally is injustice" (Omoregbe, 1993, p. 112). Pazhayampallil quoting Aquinas referred to justice as: "a cardinal virtue which inclines one to give another his due." O'Callaghan in his *The Meaning of Justice*, gave justice a moral outlook and defines it "as a moral virtue which inclines one to respect man's personality and to grant him what is due to him as individual charged with the responsibility of his own destiny" (O'Callaghan, 1966, as cited in Pazhayampallil, 2004, no. 512).

Strengthening the definition given by Aquinas, Pazhayampallil (2004) imbued justice with a social colouration thus: “Justice is the fundamental principle of the existence and the coexistence of man, as well as of human communities, societies and peoples” (no. 512). This implicates the *vindictory* form of justice as we shall see below. Gratsch (1985) adds his voice: for Aquinas, “justice means giving each one what is his or hers by right. It is a social norm in that it guides the actions of people in their dealings with one another. It is in this sense that the (Catholic) Church has used the term justice to enunciate its teaching on *social justice*” (p. 171).

This research agrees with Peschke (2001, vol. 2) that: “Authors are not of one mind as to the concept of justice and sometimes differ widely.” Nevertheless, he defines justice as “rendering to each man or human community their own and due by right” (pp. 228 & 232). According to him, two basic forms of justice are differentiated in this definition. Firstly, *attributive justice* which leaves to every man what is his own by right and attributes to him what he really is.” Examples include: right to one’s person, to the property which one has acquired, to one’s honour and merited reputation, to one’s discoveries, to impartial acknowledgement of one’s qualifications, etc.

The second form is *proportional justice* which “renders to every man what is his due by right, that is, what he does not yet own but what he is entitled to receive as a remuneration, compensation or benefit, or what he is also obliged to accept as a burden in the service of the community.” Again, Peschke continues: “Since the proportion of goods or burdens due to a person is usually rendered according to the principles of equality in *exchange, distribution* and *contribution*, this second form of justice can be termed proportional justice” (p. 232).

Moreover, proportional justice (according to Peschke) is subdivided into four subspecies of: commutative, distributive, contributive (legal) and social justice. Different classification or division of justice by scholars notwithstanding, this work only considers the above four together with *vindictive* justice. But before that, it is necessary to state the parts of the virtue of justice in the light of St. Thomas Aquinas:

Thomas treats the virtue of justice and its parts at greater length than any other virtue. The subjective or essential parts of justice are the virtues of distributive and commutative justice. The quasi-integral parts of justice are to do good and refrain from evil. The potential parts of justice include the virtues of religion, piety or filial respect, observance, gratitude, vengeance or vindication, truthfulness, friendliness and liberality. (Gratsch, 1985, p. 172)

We may now look at the first three subspecies of justice: commutative, distributive and legal (or contributive) before *social justice* which is the crux of this work.

COMMUTATIVE JUSTICE

Justice is called commutative, “because in general it is expressed in ‘commuting’ – that is, in giving and receiving” (Composta, 2013, p. 66). It is justice in strictest sense because it exists between equals – “between man and man, or between two independent states, or between man

and the state considered apart from any political relation between them. Commutative justice is the basis of contracts” (Fagothey, 2000, p. 234). Pazhayampallil (2004) clarifies:

Commutative justice is a virtue which inclines one to give another (physical or juridical person) what is his due as a person distinct and independent from oneself. It is concerned with the exchange of goods and services according to strict equality of values.... Injustice in the strict sense of the word is committed when commutative justice is violated. For example, injustice (sic) in the strict sense is violated when an employer does not pay the employee his wages.... Since rights and claims of commutative justice are mainly based on contracts, it can be called also *contractual justice*. (no. 515; Peschke, 2001, vol 2, p. 233)

This is because commutative justice is the aspect of justice that “demands respect for the rights of others and the exchange of things of equal value.” Consequently, cheating, fraud, theft, destruction of other people’s properties, etc., are violations of commutative justice (Omoregbe, 1993, p. 113). “Commutative justice, when violated, carries with it the obligation of restitution. Justice remains outraged until proper compensation has been made to reestablish the balance.” Hence, “one who has injured another by depriving him of something rightfully his is obliged in justice to restore it to him” (Fagothey, 2000, p. 234).

DISTRIBUTIVE JUSTICE

This involves the relation of the community to its members. In other words, this aspect of justice regulates the relations of a community with its members. “It demands that benefits and burdens be distributed in the community according to proportional equality.” Distributive justice chiefly applies to the state, though it also, in some way, guides smaller organizations. It is important to note that this kind of justice exists between a superior and his subordinate, and not between equals as that of commutative justice. It is the particular obligation of public officials. A good example is the gradation of direct taxes according to income. But disproportion in the distribution of burdens and partiality in the award of favours (i.e., favouritism) contravenes distributive justice.

Distributive justice, says Fagothey (2000), is not justice in as strict a sense as commutative justice. This is because; “before distribution, the goods do not yet belong to the individuals.” However, to withhold them is morally wrong – “but it is not depriving the individuals something that is actually theirs but only of something they hope to get.” This implies that “distributive justice does not strictly oblige to restitution, unless commutative justice is also involved” (pp. 2234-235). Aquinas’ distinction between commutative and distributive justice is captured by Gratsch (1985) thus:

There are two species of justice, commutative and distributive. Commutative justice is concerned with mutual dealings between two individuals, particularly in matters of buying and selling. Distributive justice has to do with the distribution of rewards, honors and burdens among the members of a community. The equality demanded by commutative justice is absolute and

arithmetical; for example, if I owe someone five dollars, commutative justice is satisfied when I repay five dollars, no more, no less. On the other hand, the equality demanded by distributive justice is proportional or geometrical, in the sense that rewards are granted to, and burdens are imposed upon, individuals in accordance with their position, prominence and capability in the community; for example, a just legislature will impose higher taxes upon those who have more resources. (p. 174)

LEGAL OR CONTRIBUTIVE JUSTICE

Whereas distributive justice is concerned with individual members of a community, legal or contributive justice is concerned with the general good of the community. Little wonder, some regard this form of justice as general justice. It is therefore, a reverse of distributive justice – which is the relation of the community to its members; whereas legal justice is a relation of the members to the community. It requires each individual to contribute his *proper* share towards the common good. Fagothey (2000) opines:

It is justice in even a less strict sense than distributive, because a man contributes toward the common good by the practice of all the social virtues, and so legal justice begins to shade out into a condition of general social uprightness. Like distributive justice, it does not of itself oblige to restitution, because what the state demands does not actually belong to the state until the state gets possession of it. It is probably called *legal* justice because it shows itself chiefly in law-abiding conduct, but it goes beyond the bare requirements of the written law.... Some have suggested that it be called *contributive* justice, thus pairing it off with distributive justice (p. 235).

In other words, legal justice “demands the observance of all laws aimed at the common good. Since the common good takes precedence over private interest, legal justice demands that the common good should not be sacrificed for the private interest of the individual or for his convenience” (Omogbe, 1993, p. 113). Thus, the violation of any law directed towards the common good is a violation of legal or contributive justice.

It must be observed that the cardinal virtue of justice as understood by Fagothey (2000), “comprises commutative and distributive justice, which taken together are often called particular justice.” Legal justice, also referred to as general justice, “is not part of the cardinal virtue because it is too general and implies in its scope all the other virtues that have any social bearing” (p.235). Of course, Fagothey continues, the above fact does not make legal justice less important. Again, in its very broadest sense, *justice* is sometimes taken to be synonymous with all virtue.

SOCIAL JUSTICE

Carl Peter (2006) rightly avers:

In the latter part of the nineteenth century(,) dissatisfaction with the term *legal* grew widespread. It had all too widely been interpreted to mean that justice was enshrined in legal codes. The term no longer conveyed the idea of a general virtue ordering relationships in society towards the common good. Hence a new name was sought Worked out from the social nature of the person and the common good, the concept of *social justice* has established itself as at least a replacement for legal (general) justice (p. 551).

However, scholars are not in harmony as regards the nature, ambit and function of social justice. For some, it is nothing else but merely another expression for legal justice. Authors like Aubert (1975) even equated the two. Others say that it comprises and/or signifies all that legal and distributive justice mean. And others again distinguish social justice from legal, distributive and commutative justice (B. Haring, as cited in Pazhayampallil, 2004, no. 512; Peschke, 2001, vol. 2, p. 234). Both distributive and contributive/legal justice, Fagothey (2000) writes, “are implied in the modern term *social justice*, which some writers consider a separate type of justice, others identify with legal justice, and still others make into a combination of distributive and legal justice, whereby each one both contributes to and receives back from society his proper share” (pp. 234-235). In another twist, Composta (2013) opines:

It is called *legal justice*, if it is supported by the positive juridical order – that is, by civil law. It is instead called *social justice* if the foundation is natural right.... For example, in England in the nineteenth century the daily workday lasted ten or twelve hours and it was a particular regulation of time and space. It was legal justice to require it; but, social justice requires reduction, and not only for England of the nineteenth century, but for every legislation of work in absolute. (p.67)

The term *social justice* is a recent concept popularized by Pope Pius XI’s *Quadragesimo Anno*. It refers to the economic welfare of social groups. And as such, “it demands a proportionate share for the social partners in the fruits of their economic cooperation.” When this is applied to the relations between the worker and the employer, it demands “that the worker should have a share in the profits that he should be paid as a member of a family, that his wage is to be determined, with an eye to the good of the industry, the general economy and the social order.”

In fact, social justice aims at establishing the right social order. In other words, it aims at creating economic, political, moral and intellectual conditions which allow the citizens to live a fully human life, i.e., every citizen (within his own field) is bound to contribute to the common welfare. For instance, the wealthy man must use his wealth to further the common good – hoarding up of goods and amassing of property without utilizing them for common good violates social justice.

Furthermore, social justice demands a proportionate and equitable distribution of the wealth of a nation among the different groups and regions of a society. Therefore, the concentration of a nation’s wealth and land-ownership in the hands of a few extremely rich families and individuals, while the majority of citizens live in poverty, offends social justice.

Again, those nations favoured by nature are obliged to come to the aid of the less fortunate ones. Such aids are not mere “alms,” but demands of the social order and of peace in the world. It is pertinent to add that every talent and all possessions are bestowed (by God) for the good, not only of individuals, but of the whole of mankind (B. Haring, as cited in Pazhayampallil, 2004, no 512). In the words of Peschke (2001, vol. 2); “... social justice also imposes obligations upon nations in their mutual relations. It binds the economically advanced countries to assist nations in poverty and misery, so that they can live in a manner worthy of human beings” (p. 235).

More so, social justice “is a virtue by which men as members of the human society ... give to their fellow men, especially the needy, those things necessary for the maintenance of their live and dignity.” This is akin to John Rawls’ *Theory of Justice* where he tried to tackle the problem of *social justice*. In fact, Rawls’ main preoccupation in his *A Theory of Justice*, according to Omoregbe (1991), “is how to improve the lot of the poor in the capitalist system” (pp. 152-153). John (2016) shares similar sentiment. Pope John Paul II adds: “social justice is true only if it is based on the right of the individual” Pope John XXIII in his encyclical “*Mater et Magistra*,” clarifies further:

We are all equally responsible for the undernourished peoples. Hence, it is necessary to educate one’s conscience to the sense of responsibility which weighs upon each and every one, especially upon those who are more blessed with the world’s good... ‘How does God’s love abide in any one who has the world’s goods and sees a brother or sister in need and yet refuses help?’ ... Justice and humanity demand that those countries which produce consumer goods, especially farm products, in excess of their own needs should come to the assistance of those other countries where large sections of the population are suffering from wants and hunger. It is nothing less than an outrage of justice and humanity to destroy or to squander goods that other people need for their very lives (Pope John XXIII, as cited in Pazhayampallil, 2004, no. 517).

Lastly, Pope John Paul II affirms: “overcoming the rigid limitations of commutative justice (i.e., justice in the strict sense), social justice therefore, seeks to subordinate things to man, individual goods to the common good, the right to property to the right to life, eliminating every condition of existence and of work that is unworthy of the human person” (Pope John Paul II, as cited in Pazhayampallil, 2004, no. 517). This is because right social order demands, above all, that one should check excessive ambition, greed, laziness, envy, lust, intemperance and so on. Gratsch (1985) chronologically summarized the Church’s contribution to social justice:

The Church has had much to say about social justice, especially in the twentieth century. In *Rerum Novarum* (1891), Pope Leo XIII stressed the dignity of workers as human beings and their right to a just wage and decent working conditions. He also defended their right to organize labor unions to protect themselves. In *Quadragesimo Anno* (1931), Pius XI reaffirmed the dignity of workers and the responsibility of the state to promote the welfare of every member of society. In his *Mater et Magistra* (1961) John XXIII emphasized the

global aspect of justice, the right of all to share the fruits of society, and the need to correct economic imbalances. In *Pacem in Terris* (1963), the same Pope listed the right and duties flowing from the dignity of personhood. In *Gaudium et Spes* (1965), the Second Vatican Council spoke of the Church's unique contribution to the establishment of justice, but it also recognized the contribution of other agencies to this enterprise. Two years later, Paul VI's *Populorum Progressio* (1967) called upon advanced nations to assist developing nations not only by economic aid, but also by establishing a more just economic order. His *Octogesima Adveniens* (1971) spoke of many new problems in which justice is a factor: urbanization, youth, the role of women, the victims of change and discrimination, the environment, and unemployment. In the same year, the Synod of Bishops in their document, *Justice in the World* (1971) said that actions on behalf of justice and participation in the transformation of the world are a constitutive dimension of the preaching of the gospel. Finally, John Paul II, in his encyclical, *Redemptor Hominis* (1979), explained the social implications of the incarnation and redemption (pp. 171-172).

CONCLUSION: VINDICATIVE JUSTICE

Now, because of its role in the reestablishment of the social order, this paper considers it necessary to conclude with another important form of justice known as vindicatory justice. Apart from attributive and proportional justice mentioned above, Peschke (2001, vol. 2) equally made case for the third form of justice, *retributive or vindicatory justice*:

... since the demands of justice are basic requirements for social coexistence and human development, their violation cannot be tolerated but calls for reparation of the injury inflicted. This leads to a last form of justice, retributive or vindicatory justice. It demands indemnification of the injured person and active punishment of the offender (pp. 232-233).

Similarly, Pazhayampallil (2004) understands vindicative justice as “a virtue by which one avenges injuries in a reasonable manner. It is also a virtue which inclines the legitimate authority to inflict suitable punishment on those who transgress the law” (no. 521). Omoregbe (1993) buttresses further: “*Vindicative justice* is that aspect of justice which demands appropriate punishment for an offence, not out of the spirit of vengeance but in the interest of the community or for the correction of the offender, and it should not be more than is deserved by the offence” (p. 113).

In the end, this research agrees with Pope John Paul II that limitations of justice in its strict sense must be surmounted in order for social justice to work – since justice implies existence and coexistence of more than one person, more than one society, community or nation. Social justice, this work reiterates, seeks to subordinate things to man, individual goods to the common good, the right to property to the right to life, eliminating every condition of existence and of work that is unworthy of the human person. The question of justice, this paper finally submits, should be holistic, contextual, realistic, reasonable and above all, humanistic. In other words, justice should be more social, fairer and less strict.

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